

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

WPA 2655 of 2009

CESC Limited & Anr.

Versus

The Ombudsman & Anr.

For the Petitioners : Mr. Debanjan Mukherjee, Adv.
Mr. Shounak Mitra, Adv.
Mr. Aditya Sarkar, Adv.

For the Ombudsman : Mr. Raja Saha, Adv.
Mr. Sanjay Mukherjee, Adv.

Heard on : 25.08.2026

Delivered on : 22.09.2026

Uploaded on : 22.09.2026

Ajay Kumar Gupta, J.: -

1. By filing this writ petition, the Petitioners have challenged the order dated December 4, 2008, passed by the Learned Ombudsman constituted under the West Bengal Electricity Regulatory Commission (Guidelines for Establishment of a Forum for Redressal of Grievances of Consumers and Time and Manner of Dealing with such Grievances by the Ombudsman) Regulations, 2006 (in short, 'the said Regulation, 2006') in connection with Grievance Redressal Case No. C-596K of 2008 U/S 42 (6) of the Electricity Act, 2003.
2. By the said impugned order, the Ombudsman directed the petitioner no. 1/CESC Ltd. to pay Rs. 8,350/- to the complainant/private respondent no. 2 as compensation for failure in standards of performance in issuing an estimate to be paid by the complainant in connection with her application for new connection.
3. The sum and substance of the case is that the respondent no. 2 used to get electricity from service connection No. 54193100007, standing in the name of Nirapada Dey in premises No. 149, West Ghosh Para Road as a tenant. The respondent No. 2 applied for a separate new connection in her name on 28.06.2004 at her tenanted premises. However, the present petitioner No. 1/CESC Limited did not consider the aforesaid application on account of an outstanding due against

the aforesaid connection, of Rs. 24,183.83/-, originally due from Nirapada Dey against her other consumer No. 54193102001 at premises No. 148, West Ghosh Para Road, which was disconnected on 07.07.2003. However, the present petitioner No. 1/CESC Limited charged this amount against Nirapada Dey for Consumer No. 54193100007, premises No. 149, Ghosh Para Road.

4. In the early part of November, 2005, Connection No. 54193100007 was also disconnected due to outstanding charges. The Respondent No. 2 was asked to pay the outstanding charges along with 8 other consumers, who, in turn, were compelled to pay the outstanding dues of Rs. 45,394.75/- on 28.11.2005 against only one connection No. 54193100007; as such, the line was reconnected on 30.11.2005. Respondent no. 2 started getting electricity therefrom.
5. Respondent No. 2 re-applied for a new connection on 07.12.2005. The said application was withheld due to outstanding dues to the tune of Rs. 87,588/-, as claimed by the petitioner no. 1/CESC Limited, lying in the closed accounts of some consumers, including that of the landlord, Amal Kumar Dey. However, after hearing the respondent no. 2 and other applicants on 05.05.2006, the petitioner no. 1/CESC Limited herein was satisfied that there was no nexus between the complainant and Amal Kumar Dey in the matter of

electric connection and further decided to process the application for new connection of respondent no. 2. The premise of respondent no. 2 was inspected on 03.06.2006 and thereafter the petitioner no. 1/CESC Limited issued an offer letter on 06.06.2006 intimating the amount to be deposited towards service charge etc. Accordingly, the respondent no. 2 paid the amount on 11.09.2006, and connection was effected on 19.09.2006.

- 6.** The respondent no. 2, however, made a representation before the Authority for refund of the deposited amount not connected with the respondent no.2 as well as payment of compensation on two grounds:

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- i) Refund to the respondent no. 2 a sum of Rs. 45394/- paid by the petitioner no. 1 on 28.11.2005 against bill dated 28.11.2005 in connection with the pending dues against connection no. 54193100007 standing in the name of Nirapada Dey, since the claim of the bill was supposedly violative of the Electricity Act, 2003;
- ii) Payment of compensation to respondent no. 2 by petitioner no. 1 for delay in effecting connection against his application dated 07.12.2005 beyond the admissible period under electricity law.

- 7.** While deciding the complaint made by the respondent no. 2, the Ombudsman rejected her first prayer for refund of Rs. 45394/- which was claimed to have deposited by the respondent no. 2 and others since the respondent no. 2 could not prove by any document that she paid the sum herself to the present petitioner no. 1. However, the Ombudsman after considering the regulation and facts of the respondent no. 2, finally directed to pay a sum of Rs. 8,350/- as compensation for failure of standards of performance in the matter of issuing estimate to be paid by the respondent no. 2 in connection to her application for new connection. Therefore, being aggrieved by the said impugned order dated December 4, 2008 passed by the learned Ombudsman, the petitioners filed this writ petition.
- 8.** Learned counsel appearing on behalf of the CESC Ltd. submitted that the Ombudsman passed the order whimsically and mechanically without considering the actual facts and provisions of law. The Ombudsman also did not consider that the present petitioners had to verify and inspect the premises to ascertain whether there was any nexus between the respondent no. 2 and the consumer Amal Kumar Dey before allowing her new application for new connection. It took some reasonable time to inquire into and ascertain the nexus and inspect the property; those delays were unintentional and cannot be

wholly attributed to the petitioners. The petitioners cannot allow any application for a new connection when huge dues are lying against the premises, where the petitioners have to provide a new connection to a tenant. Without verification and inspection of the premises, and further without ascertaining the nexus between the old consumer and the new applicant, it is not permissible to allow a new connection as per the regulation, as there were huge dues of Rs. 87,588/-, lying in the name of Amal Kumar Dey of the said premises.

9. It was further submitted that the Premises Nos. 148 and 149 are the same and similar; West Ghosh Para Road and Ghosh Para Road appear to be the same. After inquiry and being fully satisfied that there was no nexus between the respondent no. 2 and the owner Amal Kumar Dey, the petitioners immediately decided to provide a new connection in favour of the respondent no. 2. Immediately, vide order dated 06.06.2006, the respondent no. 2 was directed to deposit service charges etc., who in turn, paid the requisite amount after three months on 11.09.2006 and connection was effected on 19.09.2006. Therefore, there was no intentional laches or delay on the part of the petitioners; as such, the impugned order under challenge is liable to be set aside.

- 10.** Learned counsel has relied upon Regulations 3.1.1 and 3.1.2 to support his contention that there is a specific provision for inspection of the premises to ascertain the dues and nexus with the applicant, who applied for a new connection in the premises, where there were huge dues and a timeframe is also given therein, which had to be followed by the petitioners.
- 11.** It was further submitted that there is a clear provision for recovery of arrears from the owners or consumers of premises if someone comes for a new connection in the same premises, where previous dues exist, because Regulation 3.4.2 clearly mentions that the licensee shall be eligible to recover from a new and subsequent consumer(s) in respect of the same premises only if a nexus between the previous defaulting consumer(s) and the new consumer(s) in respect of the same premises is proved and established. The onus of proving a nexus, if claimed by a licensee, shall lie on the licensee.
- 12.** Learned counsel has placed reliance on two judgments as under: -
- i. *Isha Marbles v. Bihar State Electricity Board and Anr.*¹** particularly in paragraph no. 63;
 - ii. *Paschimanchal Vidyut Vitran Nigam Limited and Ors. v. DVS Steels and Alloys Private Limited and Ors.*²** particularly in paragraph nos. 14 and 15.

¹ (1995) 2 SCC 648;

² (2009) 1 SCC 210.

- 13.** None appeared on behalf of the respondent no. 2 despite good service of notice. No accommodation was sought for at the time of call.
- 14.** Learned counsel appearing on behalf of the Ombudsman opposed the prayer of the petitioner and further argued that the Ombudsman has rightly considered the case of the parties coupled with facts and law as applicable. After hearing and considering the provisions and materials on record, compensation to the tune of Rs. 8,350/- was finally allowed, following the rules and regulations of the CESC.
- 15.** Despite there being no nexus between the respondent no. 2 and Amal Kumar Dey, the licensee, being the petitioner no. 1, took a long time to provide the new connection to the respondent no. 2; as such, as per the prevailing regulation, the calculation was made by the Ombudsman, who finally directed the licensee to pay the aforesaid amount. If the licensee fails to provide a new electric connection within due time, there is a provision for compensation to be paid in view of Regulation 12. Therefore, the case of the present petitioners is meritless and is liable to be dismissed with costs.
- 16.** Heard the learned counsels for the respective parties and upon perusal of the materials on record, this Court is of the view that at the very outset, this Court has to look at the relevant provisions for proper and effective adjudication of the case in hand.

i) Regulations 3.1.1 and 3.1.2 of the West Bengal Electricity

Regulatory Commission Regulations, 2005 read as follows: -

3.1.1. The distribution licensee shall, on receipt of a request letter in the form given in Annexure – A from the intending consumer, cause an inspection to be conducted at the premises to which supply of electricity is required, by his authorized representative, and send to the intending consumer within the time period specified below an estimate of the expenditure to be recovered from the latter in terms of Section 46 of the Act and the Regulation made thereunder, as also an estimate of the deposit(s) to be made by the intending consumer towards receiving supply of electricity within a time period specified below:-

For LV & MV supply in

- (i) Rural area – 4 weeks*
- (ii) Urban area – 2 weeks*

For HV/EHV supply-

- (i) 11 KV – 1^{1/2} months*
- (ii) 33 KV – 2 months*
- (iii) 132 KV – 3 months*

All the above time periods shall be counted from the date of receipt of request letter of the intending consumer submitted in Annexure – A along with earnest money specified in Regulation 3.1 above:

Provided that above time duration shall be in addition to any excess time taken by any other licensee if involved for making the facilities ready for the new connection:

Provided further that wherever new sub-stations are required to be erected/commissioned in order to supply power to intending consumer, the provision under Regulation 3.5 shall apply.

3.1.2. An intending consumer shall, after making the payments/deposits through banker's cheque, bank draft or cash to the distribution licensee, as aforesaid, within a period of 45 (forty-five) days from the date of receipt of the intimation from the distribution licensee determining the payments and deposits in

this behalf, submit an application in the form specified in Annexure- B completed in every respect, seeking supply of electricity to his parents.”

ii) Regulation 12 of the West Bengal Electricity Regulatory Commission Regulations, 2005 reads as follows: -

“12. Enforcement Mechanism:

If a distribution licensee fails to meet the specified guaranteed standards against various service areas laid down in these Regulations, the distribution licensee shall be liable to pay compensation commensurate with the loss suffered by the consumer but not less than the amount for default against each item as specified below: -

During the first year of the Regulation’s operation.

- (a) Failure to release new electric connection within due time – Rs. 50/- each additional day.*
- (b) All other specific complaints specified under paragraphs 3, 4, 7, 8, 9 and 10 – Rs. 50/- for each additional slab of time or part thereof, irrespective of whether the place is urban or rural.*

During the second year of the Regulation’s operation.

- (a) Failure to release new electric connection within due time – Rs. 250/- each additional day.*
- (b) All other specific complaints specified under paragraphs 3, 4, 7, 8, 9 and 10 – Rs. 250/- for each additional slab of time or part thereof, irrespective of whether the place is urban or rural.*

During the third year of the Regulation’s operation and thereafter.

- (a) Failure to release new electric connection within due time – Rs. 500/- each additional day.*
- (b) All other specific complaints specified under paragraphs 3, 4, 7, 8, 9 and 10 – Rs. 500/- for each additional slab of time or part thereof, irrespective of whether the place is urban or rural.”*

iii) Regulation 3.4.2 of the West Bengal Electricity Regulatory

Commission Regulations, 2007 reads as follows: -

“3.4.2 The licensee shall be eligible to recover from a new and subsequent consumer(s) the dues of the previous and defaulting consumer(s) in respect of the same premises only if a nexus between the previous and defaulting consumer(s) and the new consumer(s) in respect of the same premises is provided. The onus of providing a nexus, if claimed by a licensee, shall lie on the licensee.”

- 17.** Having carefully gone through the regulations as aforesaid, it is clearly established that the licensee, before granting a fresh connection over the premises against which substantial dues of a previous consumer are outstanding, must be satisfied that there was no nexus between the defaulting consumer and the new applicant; otherwise, there would be a risk of the inability to recover the legitimate arrears at all. The same also finds support in the decisions relied upon by the Petitioners. However, such right does not independently suspend or override the statutory timeline prescribed under Regulation 3.1.1 for issuance of the estimate. Given that the onus of proving nexus squarely upon the licensee under Regulation 3.4.2, any delay occasioned in discharging that onus is a delay of the licensee's own making, and cannot, without more, be treated as time reasonably excluded in computing compliance with Regulation 3.1.1.

- 18.** Further perusal of the judgments relied upon by the petitioners reveals that the licensee can only decline or withhold connection to a new applicant where dues of a previous defaulting consumer remain outstanding, upon establishing the requisite nexus or succession between the two. Absence of proof takes away the licensee's right to fasten the earlier liability upon the new consumer. In that context, the decisions relied upon by the Petitioner do not apply in the facts of the present case; rather, they reinforce that the new connection must be provided within a reasonable time as stipulated in the regulation.
- 19.** However, time ought to have been maintained; the right of the Respondent would otherwise be curtailed. The right to live peacefully and with dignity is derived from Article 21 of the Constitution of India. The Petitioners have delayed a lot in inspecting the premises to ascertain whether there was any nexus or connection with the previous consumer and the premises to ask the application to clear the dues amount. The Respondent No. 2 applied for a new connection in the premises, where there was no nexus with the defaulted consumers. It also supports the case of the petitioners rather undisputed.
- 20.** It is also relevant that the Ombudsman confined the finding of default, and the consequent compensation, to the delay in issuing the

estimate alone, and did not extend it to the subsequent period between the offer letter dated 06.06.2006 and the deposit made by respondent no. 2 on 11.09.2006, a delay of roughly three months attributable to the consumer herself in making payment, and one that Regulation 3.1.2 allows up to 45 days for in any event, but which the Ombudsman evidently did not visit upon the petitioners. This selective and proportionate attribution of delay is a further indicator that the impugned order was the product of a reasoned assessment of the record, and not a mechanical exercise of power.

- 21.** The Ombudsman rightly assessed the period of delay prior to supply for failure in standards of performance in issuing an estimate to be paid by the complainant in connection with her application for new connection. The respondent no. 2 applied for new connection on 07.12.2005, whereas vide order dated 06.06.2006, the respondent no. 2 was directed to deposit service charges etc almost lapse of 6 months. It is an unexpected delay caused by CESC Ltd. for inspection and to ascertain the nexus between the defaulting consumer and the Respondent No. 2. Consequently, the Ombudsman's finding is found correct, valid and well-reasoned. Therefore, the impugned order calls for no interference by this court.

- 22.** Accordingly, **WPA No. 2655 of 2009** stands **dismissed**. Connected applications, if any, are also, thus, disposed of.
- 23.** Consequently, the impugned order dated December 4, 2008, passed by the learned Ombudsman, is hereby affirmed.
- 24.** Interim order, if any, stands vacated.
- 25.** Parties shall act on the server copies of this Judgment downloaded from the official website of the High Court at Calcutta.
- 26.** Urgent Photostat certified copies of this Judgment, if applied for, be supplied to the parties upon compliance with all the necessary and legal formalities.

(Ajay Kumar Gupta, J.)

P.A.