IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

Present:

The Hon'ble Justice Rai Chattopadhyay

W.P.A. No. 27580 of 2026

Lakshmi Narayan Shaw & Ors.

Vs.

CESC Limited & Anr.

Mr. Bidyut Kr. Halder,

Mr. Indranil Halder,

Ms. Neha Singh

... for the Petitioners

Mr. Dr. Madhusudan Saha Ray

... for the respondent CESC Limited

Heard on: 25.09.2026, 29.09.2026, 05.10.2026.

Judgment on: 12.11.2026; Uploaded on: 12.11.2026

1. The moot question to be determined in the instant writ petition is whether the *third proviso* to section 135 (1A) of the Electricity Act 2003, shall have a mandatory and unavoidable manner of application, in the instant case or not.

2. Let first the provision be quoted for benefit of discussion which is as follows:

PART XIV OFFENCES AND PENALTIES

Section 135. (Theft of Electricity): ---

1[(1) Whoever, dishonestly, --

(a) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier as the case may be; or

(b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or

(c) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity,

(d) uses electricity through a tampered meter; or

(e) uses electricity for the purpose other than for which the usage of electricity was authorised, so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both:

** ** ** ** **

(1A) Without prejudice to the provisions of this Act, the licensee or supplier, as the case may be, may, upon detection of such theft of electricity, immediately disconnect the supply of electricity:

** ** ** ** **

Provided **also that the licensee or supplier, as the case may be, on deposit or payment of the assessed amount or electricity charges in accordance with the provisions of this Act, shall, without prejudice to the obligation to lodge the complaint as referred to in the second proviso to this clause, restore the supply line of electricity within forty-eight hours of such deposit or payment.**

3. Section 135 (1A) of the Act of 2003 is an enabling provision for the authority to disconnect supply of electricity, upon detection of theft, without prejudice to the other provisions under the said

Act. The statute lays down sufficient discretionary power upon the licensee in matter of disconnection of electricity upon detection of theft, by virtue of the said provision. The *third proviso* thereafter put forth the condition as to when upon detection of theft and pursuant to disconnection of electricity due to the alleged theft by the consumer, the connection can be restored by the supplier. It says that on deposit or payment of the assessed amount or electricity charges by the consumer in accordance with the provisions of this Act, the licensee shall, without prejudice to its obligation to lodge the complaint as referred to in the *second proviso* to this clause, restore the supply line of electricity within forty-eight hours of such deposit or payment. The interpretation of section 135 (1A) of the said Act read with the *third proviso* thereof is the relevant issue in the instant writ petition.

4. The factual background of the case in a nutshell is that, the writ petitioner has been issued with the final order of assessment dated 07.9.2026 by the respondent/CESC, of an amount of Rs. 6,75,841/-. Allegation against the petitioner is of over consumption, on account of theft of electricity. The electrical line of the petitioner has been disconnected, on this allegation, stating the same to be in accordance with the law. Later, the licensee has issued the final order of assessment against the writ petitioner, as stated above.

5. Mr. Bidyut Kr. Halder, learned advocate for the writ petitioner has submitted that the writ petitioner contemplates to challenge the said final order of assessment dated 07.9.2026, issued against him, in a statutory appeal. That, in the mean time the petitioner desires his electricity connection to be restored. Mr.

Bidyut Kr. Halder, learned advocate for the writ petitioner has relied on the following orders of this Court, to buttress his argument that in an appropriate case, such restoration of electricity may be allowed subject to payment by the writ petitioner a part of the said assessed amount [as per the orders of Court relied on by the petitioner, 50% of the finally assessed amount] Mr. Bidyut Kr. Halder, learned advocate has submitted that the Court has directed for immediate restoration of electricity connection subject to payment of 50% of the assessed amount by the writ petitioner in those cases, which he relies on. In the instant writ petition, he seeks similar order to be passed by this Court.

6. The following orders of the Court have been relied on by Mr. Bidyut Kr. Halder, learned advocate for the writ petitioner:

i. **Order dated 18.4.2013 in MAT No. 553 of 2013;**
ii. **Order in Akhtar Hossain versus CESC & Others dated 30.11.2016 [MAT No. 1784 of 2016]; and**
iii. **Order in Smt. Sutapa Nath versus CESC Limited & Another dated 28.9.2026 [WPA No. 26103 of 2026].**

7. To the submission and prayer of the petitioner as above, vehement objection has been raised on behalf of the respondent/CESC. Mr. Dr. Madhusuda Saha Ray learned advocate for the said respondent has submitted that as per ratio of the Division Bench judgment of this Court in **Santosh Agarwal versus CESC Limited and Others [dated 05.5.2022, in FMA No. 197 of 2022]**, deposit of the entire of the finally assessed amount is *sine qua non*, for reconnection of electricity upon detection of theft and assessment of amount to be deposited due to theft by the consumer.

8. He submits that sitting in judicial review there is very little or no scope at all for this Court to apply any discretion in this regard, beyond scope of the statutory mandate for the reason that such discretion could only have been exercised in situations where there were two or more legal options, which is not the issue at hand. That the specific legal bar contained in the statute should disable exercise of any such discretion which may render outcome excepting that provided under the statute. In this regard Mr. Dr. Madhusuda Saha Ray learned advocate for the respondent has relied on a judgment of the Supreme Court in **Anurag Kumar Singh versus State of Uttarakhand & Others [reported at AIR 2016 SC 4542]**. Mr. Dr. Madhusuda Saha Ray has further submitted that the petitioner's intention of filing any statutory appeal to challenge the said final order of assessment is doubtful, since, in spite of lapse of the statutory time limit, which is a mandatory time frame to follow to prefer an appeal, no steps have yet been taken by the petitioner, for filing any such appeal. As regards requirement of mandatory observance of the statutory provisions under section 135 (1A) of the Act of 2003, for payment of the assessed amount even by instalments, for reconnection of electricity, Mr. Dr. Madhusuda Saha Ray learned advocate for the respondent has also relied on the orders of this Court in **Sk. Abbas Ali versus State of West Bengal & Others dated 02.9.2026 [WPA No. 22811 of 2026] and Md. Ifterkhar versus CESC Limited & Another dated 09.4.2026 [MAT No. 510 of 2026].**

9. The legal position is well settled now, particularly in view of the orders of this Court in **Santosh Agarwal's case (supra)** and subsequently in the case of **CESC Limited versus Smt.Sutapa**

Nath & Another [order dated 14.10.2026 in MAT No. 1782 of 2026]. The Courts have held firstly that, against a final order of assessment the alternative efficacious remedy available is that of an appeal against the same as per provisions under the statute. Secondly, so far as the issue of grant of reconnection on payment of 50% of the assessed amount is concerned, the Court has held that, though under section 127 (2) of the 2003 legislation, an appeal is maintainable on deposit of half of the assessed amount but that is not enough for restoration of the electricity connection in a case of theft of electricity [**Santosh Agarwal's case (supra)**]. The Courts have held that in view of provision under sections 126, 127 and 135 of the said Act of 2003, a consumer would not be entitled to reconnection merely on deposit of 50% of the assessed amount. The Court also held that the following provision under regulation 6.4 of the West Bengal Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2013, provide for reconnection of supply to be granted only after payment by the consumer of the provisionally or finally assessed amount;

> **" 6.4. Where a consumer served with the order of provisional assessment under regulation 5.2 or the order of final assessment under regulation 5.4 accepts such assessment and wishes to pay the assessed amount, he may submit an application to the licensee in the format as in Annexure – 2 within two working days from the date of receipt of the order of provisional assessment or final assessment, as the case may be, and the licensee shall provide him/serve upon him bill(s) for the purpose within forty eight hours of receipt of such application to enable the consumer to pay the amount provisionally of finally assessed. On payment against such provisional or final bill by the consumer, the reconnection shall be done within 48 hours".**

10. The legal position being so settled as discussed above, there is hardly any scope for this Court to consider the petitioner's prayer for grant of reconnection, upon payment by him of 50% of the amount finally assessed by the licensee vide its order dated 07.9.2026. The provisions under the statute or the regulations as discussed above are mandatory in nature and the Legislature in its own wisdom, has made no scope for relaxation of the said binding provisions of law. Had the Court considered the prayer of the petitioner favourably, that would have amounted to expanding the scope of the well-defined statutory mandate in this regard. This Court would not be justified in expanding the scope of the binding statutory provisions, while exercising its power of judicial review. It appears that though the petitioner has tried to impress upon the Court that he actually desires to prefer appeal against the said final order of assessment, but the same is far-fetched, in so far as the statutory period of limitation of 30 days from the date of the said order, has already been elapsed and there is no provision and scope for the said statutory appellate authority, to condone the delay committed by an aspiring appellant, in filing the statutory appeal.

11. In the foregoing circumstances, this Court cannot pass a direction upon the respondent for grant of reconnection upon payment of only the 50% of the assessed amount, without making binding directions upon the petitioner to pay the entire amount as assessed, in full, in a timebound manner. On the contrary, the petitioner is found to be obliged as per the law, to deposit the amount assessed by the respondent authority, vide the order dated 07.9.2026, for restoration of connection to his premises. However, since the petitioner has pleaded about his financial stringency, this Court finds it proper to direct him to

deposit the said amount in instalments, spreading over the 3 successive English calendar months, starting from the date of this judgment, in a manner as directed bellow.

12. Let therefore this writ petition be disposed of with the following directions:

i. The petitioner shall deposit the said finally assessed amount in order dated 07.9.2026, either at one time or in 3 instalments, spreading over the 3 successive English calendar months, starting from the date of this judgment, in 50:25:25 percent ratio;

ii. The respondent authority shall accept payment of the said finally assessed amount in order dated 07.9.2026, by the petitioner, at one time or in 3 instalments, spreading over the 3 successive English calendar months, starting from the date of this judgment, in 50:25:25 percent ratio;

iii. The respondent authority shall be obliged to immediately restore the electricity connection to the petitioner, maximum within the statutory 48 hours, of receipt of the first instalment of 50% [or the entire amount, as the case may be], of the finally assessed amount as per order dated 07.9.2026;

iv. The respondent authority shall be entitled to take steps against the writ petitioner, in accordance with law, in case the writ petitioner, after restoration of the electric connection, defaults in payment of the rest instalments, unless he pays the entire assessed amount at a time;

v. Since after reconnection, the writ petitioner shall be obliged to pay the regular electricity bill/s, raised by the respondent, as per his consumption; any default in payment of the same shall render the respondent entitled to take appropriate action against the writ petitioner, in accordance with the law.

13. The writ petition is disposed of, along with the application/s pending, if any, with the directions as above.

14. Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)