

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

WPA 685 of 2019

Mahabir Bothra
-versus
State of West Bengal & Ors.

Mr. Saumyajyoti Dutta
Mr. Anurag Sharma
Ms. Richika Agarwal
...For the petitioner

Mr. Debabrata Dhar, AGP
Ms. Paramita Sahu
...For the State

Mr. Sudipta Kanta Bhowmik
Ms. Dipti Bhowmik
... For the respondent no.4

In the instant writ petition the petitioner complains that a transformer is proposed to be installed just in front of the boundary wall of the petitioner's premises wherefrom the petitioner carries on business as a kerosene distributor. The petitioner's anxiety is that the kerosene oil stored in the tank in the petitioner's premises may be ignited if there is any accident at fire or malfunctioning of the transformer causing fire.

The petitioner had obtained an interim order on 14th November, 2019.

From a report filed by the respondent no.4 dated 21st November, 2019, I find that only poles for installing

the transformer had been erected in front of the petitioner's premises. A subsequent picture produced by the petitioner shows that a transformer is being installed on the poles which were existing on 21st November, 2019 as visible from the photograph annexed to the said report. This clearly shows that after the interim order had been passed, the transformer has been fastened to the pole. In fact, the photograph produced by the petitioner, which is taken on record, shows that men are working on the pole to fasten the transformer. This appears to be a clear violation of the order dated 14th November, 2019.

The Chairman of the West Bengal State Electricity Distribution Company Limited (WBSEDCL) is directed to look into this issue as to how the transformer has been fastened despite there being an interim order of this Court passed on 14th November, 2019 in the presence of WBSEDCL restraining installation. The Chairman shall not only cause an enquiry but will take necessary steps against the erring officers who have violated the order of the Court.

So far as the petitioner's grievances are concerned, I had called the petitioner, the Divisional Manager, WBSEDCL, Mathabhanga Division (respondent no.4) and the Officer-in-Charge, West Bengal Fire and Emergency Services, Mathabhanga

(respondent no.9) before me to hear them to ascertain the actual situation. The respondent no.9 has submitted a report dated 2nd November, 2019 and a technical analysis report dated 30th October, 2019 prepared by his superior officer. It appears from the said report dated 2nd November, 2019 that the oil tank at the petitioner's premises wherein the petitioner stores the kerosene oil is about 37 feet from the transformer proposed to be installed. The oil tank is an underground tank. The oil is drawn from the said tank to be filled in drums or other tanks for being carried out is through a dispensing unit. The distance of the dispensing unit is also about 37 to 40 feet from the proposed site of the transformer. The analysis report clearly reveals that there is virtually no chance of any fire hazard due to installation of the transformer.

The respondent no.4 has submitted that after technical survey, they have found the proposed site to be the most suitable place. The location allows drawing of electricity from three sides without causing any inconvenience to the pedestrian and passerby since the proposed site is on the land of the Public Works Department between metal portion of the road and the boundary wall of the petitioner's premises and it is not required to take the electricity lines across the road which, if done, may more hazard. If the transformer is shifted on one side, it will be next the gate of the State

Bank of India wherein more people frequent every day and that may be more hazardous. If the transformer is shifted on the other side, it will be just beside the gate of the petitioner's premises.

In fact, photographs reveal that there is a drain in between the proposed site and the boundary wall of the petitioner's premises. The petitioner, on query, admits that the distance between the storage tank of kerosene oil at his premises and the proposed site of the transformer and the dispensing unit is more or less 37 to 40 feet and, as such, there is no dispute between the distance mentioned in the report filed by the respondent no.9 and the petitioner's version. I have to accept this version to be more or less correct.

The respondent no.4 and the respondent no.9 or the superior officer of the respondent no.9 who has prepared the analysis report are experts in their respective fields and this Court has to rely upon their wisdom and give credence to their statements. The respondent no.4 has also assured this Court that all safety measures will be taken so that the transformer does not cause any accidental fire very easily. The respondent fire authorities have also stated in their report that the transformer proposed to be installed does not operate with transformer oil which fact has

been admitted by the respondent no.4 and, as such, is very less prone to cause fire.

The petitioner complains that the gate through which the vehicles carrying kerosene oil comes out from the petitioner's premises to the road while taking a turn comes very close to one of the poles installed for the transformer. The petitioner has produced a photograph.

I have seen it and the same is taken on record. I have also considered the photograph filed along with the report of the respondent no.4 dated 21st November, 2019. I can see that the distance from the gate for entry and exit to the petitioner's premises is more than sufficient for even a large vehicle like a truck to come out safely. In fact, any transformer situated on the roadside can be hit by a passing vehicle accidentally. This position has to be leniently considered as installation of transformer by the respondent no.2 is for public utility.

Since the petitioner has brought the issue before the Court and the same is decided in the presence of the WBSEDCL and the fire authority, in future the said two authorities before initiating any proceedings owing to any fire hazard arising out of any accident involving the transformer proposed to be installed should be considerate before taking any penal action as against the petitioner.

It is also made clear that the installation of the transformer at the proposed site will not be an embargo in renewal of the petitioner's fire licence if the petitioner complies with other legal norms.

In the circumstances as aforesaid, I find no reason to prevent the installation of the transformer at the proposed site in front of the petitioner's premises. The respondents are free to install the transformer at the proposed site on the conditions stated hereinabove.

The writ petition is disposed of. The interim order is vacated.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of all requisite formalities.

(Arindam Mukherjee, J.)