

AD. 35.
November 30, 2021.
MNS.

(Through Video Conference)

WPA No. 1772 of 2020

Chanchal Chowdhury and another
Vs.
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Suman Banerjee,
Mr. Sujoy Sarkar

... for the petitioner.

Mr. Kanak Kiran Bandopadhyay

...for the WBSEDCL.

Mr. Rafiqul Islam

...for the private respondent no. 5.

Upon hearing learned counsel for the parties, it is seen that the scope of adjudication, which has arisen in the present writ petition, is limited to the extent as to whether the District Magistrate, in passing the impugned order dated September 26, 2019, acted *de hors* the jurisdiction conferred on such Magistrate insofar as the electric connection to the premises of the petitioner has been directed to be disconnected.

Learned counsel appearing for the petitioner, by placing reliance on a co-ordinate Bench judgment reported at *AIR 2012 Calcutta 205 (Sk. Samsud Doha Vs. West Bengal State Electricity Distribution Co. Ltd. and others)*, argues that the power of the Magistrate within the scope of the 2003 Act and the allied

Regulations, including the Works of Licensees Rules, 2006 was at best to explore an alternative route for giving such electric connection to the consumer, in the alternative to direct compensation to be paid to the owners/occupiers and to give the connection to the petitioner upon payment of such compensation.

Learned counsel appearing for the WBSEDCL takes a rather neutral view, which is justified, that their hands are tight in view of the specific order of the District Magistrate.

Learned counsel for the private respondent no. 5 submits that his client is the owner of the premises.

However, the fact that the private respondent is the owner of the property, even if true, does not clothe the Magistrate with the power to direct disconnection of an existing electric supply within the scope of Rule 3 of the said Rules of 2006 and the provisions of the Electricity Act, 2003.

As such, WPA No. 1772 of 2020 is allowed, thereby setting aside the impugned order, bearing order no. 3 dated September 26, 2019 passed by the District Magistrate, Birbhum, in Case No. 4/R.M./2019 and remanding the matter back to the District Magistrate for the purpose of rehearing the matter and for deciding the matter afresh within the purview of the governing Law as discussed above.

It is made clear that the Magistrate shall only explore the scope of giving electric connection to the petitioner over any alternative way and, if such option is not available, to direct new connection to be given to the petitioner, if so asked for, upon assessing adequate compensation to the owner/occupier. However, the impact of setting aside the impugned order will be that the electric connection of the writ petitioner, who was enjoying such connection prior to the order of the District Magistrate, shall be restored by the WBSEDL, subject to the petitioner going on complying with all due formalities, by the mode as it was previously connected, which was disconnected pursuant to the impugned order of the District Magistrate, within a week from date. Thereafter, the District Magistrate will rehear the parties and decide the issues in accordance with law and guidelines given above within a period of two months from the date of communication of this order to the District Magistrate and adjudicate the same in accordance with law, also exploring the scope of jurisdiction of the Magistrate to take up such matter at all within the provisions of law.

It is made clear that the reconnection, as directed by this Court, shall be subject to the order of the District Magistrate, to be passed upon reconsideration of the matter and/or the order of any competent court of law.

It is made clear that this Court has not gone into the merits of the case as well.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)