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4.05.2021
S.D.

W.P.A. 10338 of 2021

**Dipto Diagnostic Private Limited
Vs.
West Bengal State Electricity Distribution
Corporation Limited & Ors.**

Mr. Purnendu Das

...For the Petitioner.

Mr. Soumyajit Chakraborty

...For the Respondent.

Supplementary affidavit has been submitted on behalf of the petitioner enclosing all the requisite documents for the establishment of Dipto Diagnostic Private Limited.

Heard learned counsel for the writ petitioner and the learned counsel for the respondent nos. 1 to 3 being the West Bengal State Electricity Distribution Corporation Limited.

Mr. Soumyajit Chakraborty, learned Counsel for the respondents aforesaid at the outset submits that the private respondents have objected physically at the time of completion of work for effecting new bulk connection to the petitioner concern M/s. Dipto Diagnostic Private Limited. It is submitted that having received objection at the locality, the

Divisional Manager, Diamond Harbour Division, WBSEDCL by its Memo No. DHD/T-10/54 dated 24.4.2021 has communicated to the writ petitioner informing that on 31.3.2021, 8.4.2021 and 16.4.2021 objections were received at his office from Shri Dipak Kumar Halder of village Haringhata, Shri Nimai Kumar Mondal, Shri Ahindra Kumar Mandal and Shri Biplab Samanta of Diamond Harbour regarding STOH line and other associated works for effecting new connection. But the said objector being the private respondents have not put in objection in writing.

Finding no alternative, the petitioner was requested to solve the matter unanimously by respondent no. 2.

Now, the petitioner has sought for issuance of writ in the nature of mandamus directing the respondent nos. 1 to 3 to give supply of electricity to the petitioner for commercial purpose at Premises No. 766, Kapathat, Diamond Harbour, Ward No. 2, Police Station – Diamond Harbour, District – South 24 Parganas, Pin – 743331 and further to restrain private respondents from creating or causing any disturbance to the petitioner in the course of giving effect electric connection meter to the petitioner and enjoyment thereof. The petitioner has also asked for direction upon the respondent no. 4, Inspector-in-Charge, Diamond Harbour

Police Station, Diamond, District – South 24 Parganas to deploy sufficient number police officials at the time of execution of the work for providing supply of electricity at the premises of the petitioner at the cost of the petitioner.

Brief facts of the petitioner's case is that the petitioner being a Company registered under the Companies Act, 2013 is carrying on business in several medical facilities and during course of business, petitioner has taken initiative to establish a Diagnostic Centre with pathology clinics and specifically, petitioner has engaged in providing medical facilities to the Covid patients as the equipments which petitioner has installed shall detect the Corona/Covid 19 confirmation instantaneously and accordingly, with this intention, petitioner has taken all steps according to law to establish the institution. The entire project of the petitioner is ready and same is awaiting for inauguration and same is stalled due to lack of electricity though petitioner has deposited the entire security deposit and other charges as demanded by the supply company being the respondent nos. 1 to 3 but petitioner has received a notice issued by the respondent no. 2 with a request to solve the disputes with the said private respondents who have raised objections against providing supply of electricity to the petitioner, though the

said private respondents having no right to raise any such objection who are the encroachers of the common road. The petitioner has replied to the said memo of respondent no. 2 requesting the respondent no. 2 to provide electricity connection as per law but the respondent authorities have failed to perform their duties though they are duty bound to render electricity supply being essential service. It is pointed out that the petitioner has already engaged 17 employees and petitioner has the capacity to provide further employment of more than 30 to 40 employees in the establishment of the petitioner as the project has been arranged with the foreign collaboration and with the financial assistance of two nationalized banks. As such, there are grave urgency in the matter of redressal of the grievance of the petitioner. Hence, petitioner has preferred this application under the scheme of Article 226 of the Constitution of India.

It is further pointed out that the petitioner is a company carrying on business in the field of Health Care Services from Diagnostic Centre and is intending to carry on business at the premises to serve the community at large in this pandemic situation due to Novel Corona Virus-19. The establishment of the project of Diagnostic Centre with Pathological Clinic is to provide medical facilities to the Covid patients as the

equipment have already been installed for detecting Corona/Covid 19 confirmation instantly and with this noble intention, the petitioner wants the relief as sought for in the writ application by invoking the prerogative power of the Hon'ble Court.

Mr. Purnendu Das, learned counsel for the petitioner submits that the entire security deposit and other charges as per the demand of the respondent no. 1 for supply with the electricity energy to the premises of the petitioner has been complied with and all other formalities have also been complied and in support of such contention a supplementary affidavit enclosing relevant documents have been placed on record which reflect that the petitioner concern has all requisites with due licence for establishment of Diagnostic Centre with Pathology Clinic. Obviously, such Diagnostic Centre and the Clinic are required to be established to serve the mankind in the hour of need when the human race is globally affected by the Covid Virus. Petitioner has already engaged 17 employees and has the capacity to provide further employment to more than 30-40 employees and petitioner has arranged the project with the foreign collaborators with the financial assistance of two nationalized banks. As pointed out, the petitioner has already deposited

the security and all charges to get service of electricity of 100 K.V. to the Distribution Company, it is expedient on the part of respondent nos. 1 to 3 to effect electricity with the assistance of the police help at the locality in view of objection being faced by the petitioner and the respondent Distribution company.

I have taken note of the affidavit of service placed on record, which clearly shows that item delivery was complete upon the private respondents, ergo, they are well in the knowledge of the case pending before the Court but despite receipt of notice, none of the private respondents has entered appearance to raise any objection. Learned Counsel for the petitioner points out that except private respondent no. 6, other private respondents are encroachers of the land whereas the respondent no. 6 happens to be a local man. This is what has been averred in paragraph 7 that private respondent nos. 5, 7 and 8 are not the residents of the locality and the said private respondents have been carrying on business on and over the road encroaching the common road which is usually used as free passage for the people and as such, the objection raised by them is with an ill motive to stop the petitioner from carrying on its Diagnostic Centre and Clinical business.

At this stage of pandemic waive of Covid 19 if the petitioner opens the Diagnostic Centre and Pathology Clinic, it would really save humanity. The petitioner is said to provide treatment relating to life support to various patients in the district and a large section of people shall get the benefit from the petitioner's project and the petitioner has installed advance and latest equipment for detection of Corona/Covid 19 patient instantly. Undoubtedly, the petitioner has incurred huge expenditure on account of installation of costly equipment at the premises of the petitioner.

This Court finds from the communication made by Divisional Manager, Diamond Harbour Division, WBSEDCL that it has simply requested the petitioner to solve the matter unanimously by resolving the objection being raised by those private respondents but since the authority has not received any written objection for the reasons best known, it was expedient on the part of the respondent authorities to have taken further recourse as to how to provide supply of electricity to the petitioner. It would appear from annexure '3' that as per the quotation of WBSEDCL procedure Rs.6,13,762/- only have already been deposited with the respondent authority, WBSEDCL. In this regard on receipt of

the communication from the Divisional Manager, W.B.S.E.D.C.L., Diamond Harbour, Advocate's letter (annexure "P 5") was communicated to the concerned Divisional Manager pointing out that alleged objectors' names have not been disclosed from the end of the respondent authority. Obviously, there is no problem from the Government of West Bengal in giving supply of electricity to the petitioner concern and it is also not known with regard to the objection being raised by the private respondents whereas according to the petitioner, the residents of the locality have not objected against the petitioner. Therefore, the respondent authorities must have appreciated the situation prevailing due to pandemic waive of Covid 19 second phase and further having regard to huge expenditure incurred for the establishment of the said Clinic to save the humanity, and also investment in Foreign Business through Dr. Stefan Kastner, Frankfurt am Main, Germany to establish such a clinic to save the humanity, the private respondents cannot be allowed to gamble.

This Court's order dated 3.5.2021 has been communicated to the Inspector in-Charge, Diamond Harbour Police Station, Diamond Harbour, South 24 Parganas whereby he was directed to submit report as to whether the

private respondents can have any objection for the new bulk connection to the Diagnostic Centre and also to place the report regarding the licence to operate the Diagnostic Centre but no report has been received by this Court which is evident from the annexure "P 6" to supplementary affidavit. This Court is well satisfied with the documents placed on record by way of supplementary affidavit this day to hold that the petitioner has incurred huge expenditure for establishment of the Diagnostic Centre with Pathology Clinic to serve the humanity of the locality at Diamond Harbour, and finds no reason by any of the local person for objection against such establishment of diagnostic centre and pathology clinic.

For the reason stated above and upon hearing learned counsel for both the parties, let writ in the nature of mandamus be issued upon the respondents, their officers, officer bearers, subordinate, men and agents to effect supply of electricity to the petitioner as per the requisition already made to W.B.S.E.D.C.L. for effective supply of electricity for commercial purpose in the premises No.766, Kapatat, Diamond Harbour Road, Word No. 2, Police Station – Diamond Harbour, District – South 24 Parganas and I further direct the respondent no. 4, Inspect-in-Charge Diamond

Harbour P.S. to deploy sufficient number of police officials and to render all possible assistance in the hour of need at the time of execution of the supply of electricity to the premises of the petitioner at the costs of the petitioner and to see that no physical obstruction is raised by any of the private respondents and to see further that such Diagnostic Centre and Pathology Clinic is established and is made operational.

With the above direction, the writ application being W.P.A. 10338 of 2021 is disposed of.

Urgent certified copies of this order, if applied for, be given to the parties upon compliance of the usual formalities.

(Shivakant Prasad, J.)