

AD. 6.
November 15, 2021.
MNS.

(Through Video Conference)

WPA No. 14761 of 2021

Shahalam Sk.
Vs.
The State of West Bengal and others

Mr. Mahim Sasmal,
Mr. Hasanuz Zaman

... for the petitioner.

Ms. Mitali Bhattacharya

...for the WBSEDCL.

Affidavit-of-service filed in Court today be taken
on record.

Heard learned counsel for both the parties.

The grievance of the petitioner is that the District Magistrate, while passing the impugned order dated June 24, 2021, failed to comply with the specific direction passed by a co-ordinate Bench of this Court vide order dated December 10, 2020 in WPA No. 2148 of 2020.

Learned counsel appearing for the petitioner submits that the transformer-in-question was installed after the petitioner purchased the property and places reliance on the current practice as regards installation of high voltage lines in that regard. It is submitted by learned counsel that such norms have been violated by the West Bengal State Electricity Distribution Company Limited (in short 'WBSEDCL').

Learned counsel appearing for the WBSEDCL contends that the transformer, as correctly observed by the District Magistrate in the impugned order, was installed long back, that is, more than 35 to 40 years ago, whereas the writ petitioner purchased the property subsequently thereafter.

Since the writ petitioner purchased the property with his eyes open and without seeking proper conversion of the land, the District Magistrate, it is submitted, was justified in refusing the prayer of the petitioner.

In reply, learned counsel for the petitioner controverts the submissions of his counterpart appearing for the WBSEDCL and further submits that the District Magistrate failed to take into account that the installation of the transformer is *de hors* the law and, as such, the transformer ought to have been directed to be removed.

A perusal of the impugned order of the District Magistrate, bearing order no. 2 dated June 24, 2021, clearly reveals that the District Magistrate, only upon being satisfied on the factual premise, that too, upon considering several materials on record, arrived at a reasoned conclusion that the writ petitioner was not entitled to the relief sought, that is, the removal of the transformer from its present location.

As apparent from the second and third internal pages of the impugned order, the District Magistrate perused the official records as well as took into

consideration several documents before arriving at the conclusion that the matter of consent, in this case, is irrelevant, since the petitioner has purchased the land long after erection of the transformer.

In such circumstances, there is no scope for violation of the rules on the part of the Distribution Company.

That apart, the current practice governing the connection of high tension wires did not operate when the installation of the transformer took place and, as such, was rightly refused to be taken note of by the District Magistrate.

Inasmuch as the direction on the Executive Officer of Bharatpur-II, to take steps as per the Panchayat Act and the connected Rules, is concerned, although the same was somewhat beyond the jurisdiction of the District Magistrate in considering the limited scope of the petitioner's grievance, no right of the petitioner has been finally decided, curtailed and/or adjudicated in directing the Executive Officer-in-question to comply with the law, and hence is not a case decided sufficient to be interfered with, at the drop of a hat, under Article 226 of the Constitution of India.

Accordingly, WPA No. 14761 of 2021 is dismissed.

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.)