

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 9305 of 2020

Subhamoy Laha

Vs.

The West Bengal State Electricity
Distribution Company Limited & Anr.

Mr. Sanjib Dawn

... For the petitioner

Mr. Debjit Mukherjee

... For WBSEDCL

Mr. Piush Chaturvedi

Mr. Subhasish Pachal

Mr. Arjun Kumar Samanta

... For the respondent no.2

The matter was adjourned on 10th February, 2021 as a report from the Howrah Zilla Parishad pursuant to an inspection held on 5th February, 2021 was to be filed before the Bench taking WPA 22739 of 2019 (WP 22739 (W) of 2019). The report in the form of an affidavit affirmed by Debashis Sardar on 10th February, 2021 has been filed in WPA 22739 of 2019 before the other Bench. A copy of the affidavit affirmed on 10th February, 2021 along with a report signed on 8th February, 2021 by the Assistant Engineer, Howrah Zilla Parishad, appended thereto and the written instruction filed by West Bengal State Electricity Distribution Company Limited (hereinafter referred to as "WBSEDCL") are kept with the record.

After perusing the report, it appears that the petitioner has obtained sanction for constructing a two-

storeyed building plan at Plot No.845, Khatian No.1876, LR Khatian No.2626, Mouza Khantora under Jhapordaha Gram Panchayat (hereinafter referred to as the “said premises”). The petitioner has constructed up to first floor level (single storeyed) and is seeking a new service connection at the said premises.

The objection initially raised before this Court by the respondent no.2 (private respondent) was that the building constructed by the petitioner was without any sanctioned plan. It prima facie appears that there is a sanctioned plan.

So far as this issue is concerned, the appropriate Bench hearing WPA 22739 of 2019 is competent to decide upon.

The second objection was with regard to the encroachment said to have been made by the petitioner to a portion of the land claimed to be owned by the respondent no.2.

This issue cannot be gone into by this Court exercising writ jurisdiction while hearing an application for new electricity connection.

The report filed by Howrah Zilla Parishad also reveals that the clearance on all three sides except the side where a common passage exists are not as per the building rules of the Zilla Parishad.

So far as the less clearance on three sides is concerned, it has to be decided by an appropriate forum and cannot also be gone into by this Court while exercising writ jurisdiction in respect of petitioner's prayer for new electricity connection.

On behalf of WBSEDCL, it is submitted that the only objection which was raised by the respondent no.2 in his objection letter dated 7th August, 2020 was that the Writ Petition No.22739 (W) of 2019 (now WPA 22739 of 2019) was pending before this Court with regard to certain issues including unauthorised construction on Plot No.845. These objections cannot also be gone into by this Court while deciding a writ petition for a new electric connection.

The fact remains that the petitioner is in settled possession of the said premises and has also constructed a building thereat. The petitioner is, therefor, entitled to a new electricity connection thereat irrespective of the objections raised by the private respondent due to the nature of such objections.

After considering the report and the submissions made on behalf of the petitioner, WBSEDCL and the respondent no.2, it appears that the objections raised by the respondent no.2 in its letter dated 7th August, 2020 addressed to the Station Manager, WBSEDCL, Domjur, Howrah, as also those made in course of hearing of the instant writ petition cannot stand in the way of the

petitioner getting a new electric connection at the said premises.

In the facts and circumstances as aforesaid, WBSEDCL is directed to give connection to the petitioner within 10th March, 2021, subject to the petitioner paying all cost and expenses, if not already paid and complying with other statutory requirements.

Grant of new electricity connection to the petitioner will neither create any new right nor abridge or extinguish any existing right of the petitioner vis-à-vis the respondent no.2 in WPA 22739 of 2019.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)