

06.01.2021
Sl.No.18
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
WPA 10926 of 2020

Md. Sabir Rizvee
Vs.
West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Arup Krishna Das

....for the petitioner.

Ms. Bandana Basu

....for WBSEDCL.

Mr. Abhra Mukherjee,
Mr. Sauradeep Dutta

....for the respondent no.4.

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

The petitioner says that the petitioner is a tenant under respondent no.4 (private respondent) of a shop room, bearing no.43 at holding no.40, Ushagram G. T. Road (East), P. S. - Asansol (S), District – Burdwan West – 713303 (hereinafter referred to as the said shop room). The petitioner says that the petitioner was enjoying electricity from a meter standing in the name of the petitioner's landlord that is respondent no.4. It is also the petitioner's case that all on a sudden the said meter was removed by the respondent no.4 and as such, the petitioner is without electricity. The petitioner says to have applied to West Bengal State Electricity Distribution Company Limited (in short WBSEDCL) by depositing Rs.650/- in the account of WBSEDCL maintained in the State Bank of India. The deposit is said to have been made on 16th October,

2020. Despite such application, the petitioner has not been given connection, as a result whereof the petitioner has filed the present writ petition.

On behalf of WBSEDCL, it is submitted that the petitioner has never made any formal application either online or offline. The document, which the petitioner relies (appearing at pages 21-22 of the writ petition), according to WBSEDCL, is not the application. Unless the petitioner makes a formal application with supporting document, the petitioner's case, according to WBSEDCL, cannot be processed.

On behalf of the respondent no.4, it is submitted that the petitioner is a tenant under the said respondent. The petitioner is holding on to the shop room but has defaulted in paying the rent for a considerable period of time. The petitioner has changed the nature of business and thereby has committed breach of the tenancy agreement. Moreover, the premises wherein the shop room is situated is in dilapidated condition and for repairs, the meter catering the petitioner has been surrendered by the respondent no.4.

Inter se disputes between the private respondent and the petitioner as submitted by the private respondent cannot stand in the way to deprive the petitioner of a new electricity connection particularly when the petitioner's possession over the shop room is

admitted. The remedy for breach of tenancy agreement or for default in paying the rent as alleged by the private respondent has to be decided by a competent forum on the invitation of the private respondent. The possession of the petitioner so far as the said shop room is concerned has been admitted by the private respondent. Unless the petitioner is evicted by due process of law, the petitioner cannot be deprived of electricity.

In the facts and circumstances as aforesaid, without going into the dispute whether there has been a formal application by the petitioner or not, the petitioner is directed to meet the respondent no.3 on 8th January, 2021 at 11.30 a.m. with all details. Subject to the petitioner complying with the statutory requirements and making payment of all necessary charges, save and except production of “no objection” from the respondent no.4, the respondent no.3 shall take all necessary steps to process the petitioner’s case and give a connection to the petitioner by 22nd January, 2021.

It is expected that the respondent no.4 shall cooperate with the officials of WBSEDCL and the petitioner at the time of inspection of the premises as also at the time of affixing the new meter to grant a new connection to the petitioner from the same to the petitioner’s shop room.

The respondent no.5, the Officer-in-Charge, Asansol (S) Police Station is directed to see that there is no breach of peace at the premises-in-question or in and around its precinct at the time of inspection as also at the time of installation of the meter and new connection to the petitioner through the same.

WBSEDCL and/or the petitioner shall well in advance inform the respondent no.5 as to the date and tentative time of visit of the officials of WBSEDCL for the purpose of inspection and for the purpose of installing the new meter and granting the petitioner a new connection at the shop room.

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, be given to the parties on usual undertakings.

(Arindam Mukherjee, J.)