

25.02.2021
Sl. No.5
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 11796 of 2020

Smt. Anjali Maity
Vs.
West Bengal State Electricity Distribution
Company Limited & ors.

Mr. Ramasish Mukherjee,
Mr. Tarak Nath Sarkar

....for the petitioner.

Ms. Bandana Basu

....for WBSEDCL.

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

Despite service the respondent nos.9-11 (private respondents) remain unrepresented. The matter is, therefor, taken up in their absence.

The petitioner has applied for a new electric connection. Having not been given the new electric connection, the petitioner has approached this Court by filing the instant writ petition.

On behalf of West Bengal State Electricity Distribution Company Limited (in short WBSEDCL), it is submitted that to give connection to the petitioner there is only a possible way, that is, by erecting some poles to draw the overhead line from the existing pole wherein the supply is there. WBSEDCL says that the poles are required to be erected on the land of the respondent nos.9-11 (private respondents). The

private respondents have physically resisted the officials of WBSEDCL from erecting the pole for the purpose of giving connection to the petitioner. Attempts were made at the panchayat level as also through the office of B.L. & L.R.O. to resolve the issue but an impasse still exists.

WBSEDCL, in such circumstances, despite being ready and willing to give connection to the petitioner has not been able to do so. The petitioner in view of the provisions of Section 43 of the Electricity Act, 2003 is entitled to electricity. WBSEDCL, being the licensee, providing electricity in the area wherein the petitioner resides, is also duty bound to give electricity to the petitioner. The statute has provided ample power and authority to a licensee like WBSEDCL as in the instant case to execute work in the property belonging to any person for the purpose of drawing electric line. Section 164 of the said Act read with the provisions of the Indian Telegraph Act, 1885 and the Works of Licensees Rules, 2006 can be gainfully referred to in this context. Under Rule 3 of 2006 Rules, the licensee, if prevented from executing the work has to approach the concerned District magistrate for the purpose of way leave.

In the instant case, WBSEDCL having taken a decision to give a new electric connection to the petitioner wanted to execute the work by erecting

poles. On being physically resisted from carrying out the work, it was the obligation of WBSEDCL to approach the concerned District Magistrate instead of shirking such responsibility. The net result is that the petitioner is without electricity, which has compelled the petitioner to knock the doors of this Court.

In the facts and circumstances as aforesaid, I direct WBSEDCL to approach the District Magistrate, Paschim Medinipur within a fortnight from date in terms of the provisions of Rule 3 of the 2006 Rules and inform the petitioner about the same.

The learned District Magistrate shall, on being approached, pass necessary orders after hearing the parties.

In the event WBSEDCL fails to approach the concerned District Magistrate within the time frame provided, it will be open for the petitioner to approach the District Magistrate immediately upon expiry of a fortnight period from date. The District Magistrate in either of the case, on being approached shall decide the matter within a period of four months from the date of being approached.

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 upon compliance with the necessary formalities.

(Arindam Mukherjee, J.)