

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C.) No.4723 of 2021

- Kishore Vishwakarma S/o Late Shri Jagannath Vishwakarma Aged About 63 Years Resident Of Near Vishwakarma Mandir Zorapara, Raipur, Chhattisgarh

---- Petitioner

Versus

1. CSPDCL Through Managing Director, Vidyut Bhawan, Raipur, Chhattisgarh
2. Smt. Venu Samudkar W/o Shri Shayam Samudkar Aged About 76 Years
3. Smt. Nisha Samudkar W/o Shri Narendra Samudkar Aged About 40 Years
4. Smt. Geta Samudkar W/o Shri Ashok Samudkar Aged About 50 Years
(respondents No.2 to 4 are r/o Vishwakarma Mandir Zorapara, Raipur Chhattisgarh)

---- Respondents

For Petitioner

– Mr. Manay Nath Thakur, Advocate.

S.B.- Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

23-11-2021

1. Heard.
2. The present petition has been filed praying for issuance of direction.
3. It is submitted that the petitioner is a tenant of respondent No.2 being in occupation of the tenanted premises since last 45 years. The private respondents have initiated an eviction proceeding, which is pending before the Rent Control Authority, Raipur. The electricity connection through which petitioner was being supplied electricity, has been

disconnected. The petitioner then moved application praying to respondent No.1 to grant her electricity connection. Her application before respondent No.1 is still pending and undecided.

4. It is further submitted that under Section 43 of the Electricity Act, 2003, the respondent No.1 is duty bound to supply electricity to the petitioner on her demand. Prayer has been made for grant of relief.
5. Such observation has been made by this Court in the order dated 16.11.2021 in W.P.(C.) No.4576 of 2021, making a reference to the case of N.R. Sharma Vs. Chhattisgarh State Power Distribution Company Limited (C.G.) In W.P.(C.) No.3341 of 2017 decided on 02.01.2018, the learned Co-ordinate Bench of the Court has held in paragraph 9 and 10 as follows:-

“9.A careful perusal of Section 43 of the Electricity Act, 2003 would show that in Section 43, the word "shall" has been used. Section 43 begins with the heading "duty to supply on request". Section 44 begins with the heading "exceptions from duty to supply electricity" stating that W.P. (C)Nos.3340/2017, 3341/2017 & 3343/2017 Page 7 of 12 nothing contained in Section 43 shall be taken as requiring a distribution licensee to give supply of electricity to any premises if he is prevented from so doing by cyclone, floods, storms or other occurrences beyond his control. Therefore, it is quite vivid that there is a statutory obligation to provide electricity to the owner or occupier of the premises. The term "premises" is defined in subsection (51) of Section 2 of the Electricity Act, 2003 as "premises" includes any land, building or structure. As stated, "occupier" means the person in occupation (whether as owner or otherwise) of the premises, where Electricity is used or intended to be used. Proviso to Section 43(2) of the Electricity Act, 2003 provides that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.

10. Thus, from the statutory provisions of the Electricity Act, 2003 it flows that it is the intention of the Legislature to provide electricity supply to all the persons, whether they are the owners of the property or occupiers, as the case may be, as between the owner and occupier, like in the case of a Landlord and Tenant, a mortgagee, assignee and any

other person, who is in lawful possession of the premises.”

6. Considered on the submissions and keeping in view the legal position as mentioned hereinabove, this petition is disposed off at the motion stage. The respondent No.1 is directed to consider on the application filed by the petitioner praying for grant of electricity connection at the earliest and take decision on the same as early as possible within a period of 30 days from today, keeping in view the observation made by this Court in this order.
7. With these observations, the petition stands disposed off.

Monika

Sd/-
(Rajendra Chandra Singh Samant)
Judge