

28th January,
2022
(AK)
03

W.P.A 621 of 2022

Sri Kamal Shyamal
Vs.
The State of West Bengal and others

(Via Video Conference)

Mr. Goutam Thakur
Ms. Anandamani Ghosh
...for the petitioner.

Mr. Biswabrata Basu Mallick
Mr. Sanjib Das
...for the State.

Ms. Mitali Bhattacharya
...for WBSEDCL.

Affidavit-of-service filed in court today be kept on record.

Learned counsel for the petitioner submits that the private respondent no.12 has taken an electric connection for operating a submersible pump which lies within the restricted area of 200 meters from the petitioner's existing submersible pump.

It is submitted that the Distribution Company has given such connection in violation of Section 7 of the West Bengal Ground Water Resources (Management, Control and Regulation) Act, 2005.

Learned counsel, thus, submits that the said electric connection ought to be directed to be severed.

Learned counsel appearing for the Distribution Company cites a Circular dated November 3, 2011 issued by the Secretary, Water Resources Investigation Development Department, Government of West Bengal which indicates that in case of a well fitted with electro-motor pump set of 5.0 HP or less, the requirement of filing a SWID certificate is exempted.

Such contention is controverted by learned counsel for the petitioner on the ground that, in any event, there are subsequent circulars which stipulate that the SWID certificate is essential in all cases.

Learned counsel also places reliance on a communication dated December 4, 2019 issued by the Additional District Magistrate (Panchayats), Paschim Medinipur, annexed at page – 34 of the writ petition, in support of such contention.

Learned counsel appearing for the State-respondent submits that the circular produced by learned counsel for the Distribution Company reflects the latest position of law.

However, it is suggested that since the District Magistrate is the appropriate authority to decide on objections regarding electric connections, the matter may be referred to the concerned District Magistrate.

There is substance in the contention of the State inasmuch as the factual dispute raised by the present writ petitioner ought to be disposed of by a fact-finding

authority upon consideration of the materials produced by the interested parties and upon giving a hearing to such parties.

Hence, WPA 621 of 2022 is disposed of by directing the Distribution Company, that is, the WBSEDCL to refer the objection raised by the petitioner by way of the writ petition to the District Magistrate, Paschim Medinipur (respondent no.3 herein) within a fortnight from date.

Respondent no.3 shall, upon receipt of such reference, decide on the same in accordance with law upon giving opportunity of hearing to the interested parties as expeditiously as possible, preferably within four weeks after such reference is made.

The parties shall act on the written communication of the learned Advocates for the parties coupled with server copy of this order, without insisting upon prior production of a certified copy thereof.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)