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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 3616 of 2022

(Via video conference)

Mamani Das
-vs.-
The Chairman,
West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Syed Mosihar Rahaman
...for the petitioner

Ms. Susmita Chatterjee
...for the WBSEDCL

Mr. Chittapriya Ghosh,
Mr. Komal Singh
...for the respondent nos. 5 to 7

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

Learned counsel appearing for the
petitioner contends that, due to resistance
being put up by the respondent nos. 5 to 7,
the West Bengal State Electricity Distribution
Company Limited (in short WBSEDCL) is not
being able to give a new electricity connection
to the petitioner at her residence.

Learned counsel appearing for the
respondent nos. 5 to 7 controverts such
contention and submits that the deceased
husband of the petitioner (son of respondent

no. 5 and brother of respondent nos. 6 and 7), during his lifetime, had given a no-objection for construction of a building under the Indira Awas Yojana in favour of the private respondent no. 5. Subsequently, such construction has been made.

The writ petitioner has initiated several criminal actions against the private respondents but does not reside at the said premises. As such, it is contended that the petitioner, not being an 'occupier', is not entitled to have an electricity connection within the ambit of Section 43 of the Electricity Act, 2003.

Learned counsel appearing for the Distribution Licensee corroborates the version of the petitioner insofar as the allegation of resistance being put up by the private respondent nos. 5 to 7 is concerned, for which the Distribution Licensee personnel are not being able to give such connection to the petitioner, although the Licensee contends that, *prima facie*, the petitioner is in occupation of the premises.

Learned counsel appearing for the petitioner, in his short reply, makes counter-allegations against the private respondents

and submits that the petitioner was compelled to lodge criminal complaints due to unlawful actions of the respondent nos. 5 to 7 against the petitioner. It is also reiterated that the petitioner is in occupation of the premises.

Be that as it may, since an electricity connection *per se* cannot create a new right in favour of anybody and the petitioner and the respondent nos. 5 to 7, *inter se*, are entitled to whatever rights they have in law, there cannot be any impediment on the part of the WBSEDCL to give a new electric connection to the petitioner at the premises-in-question; more so, since the WBSEDCL is *prima facie* satisfied as regards the settled possession of the petitioner at the premises.

Accordingly, W.P.A. No. 3616 of 2022 is allowed, thereby directing the WBSEDCL to give a new electricity connection in the name of the petitioner at the premises-in-question, in terms of the petitioner's application for new connection, within a fortnight from date, subject to compliance of all due formalities by the petitioner.

In the event any obstruction is created by the private respondents to the WBSEDCL

personnel giving such connection, the said personnel will be at liberty to approach the respondent no. 4, that is, the Officer-in-Charge, Shyampur Police Station, to grant necessary police assistance in that regard.

If so approached, the respondent no. 4 shall act on the written communications of the learned Advocates for the parties, coupled with server copies of this order, without insisting upon prior production of a certified copy thereof and shall give adequate police assistance to the WBSEDCL personnel, at the cost of the petitioner, for the limited purpose of assisting the WBSEDCL personnel in giving the connection to the petitioner.

It is made clear that the electricity connection, when given to the petitioner, shall not create any special right or equity in favour of the petitioner other than what the petitioner has in law.

It is further clarified that it will be open to the police personnel to remove any hindrance and/or padlock, found on the way to access of the WBSEDCL personnel to the existing meter board position, for the purpose of giving such connection to the petitioner.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

Written instruction filed on behalf of the WBSEDCL in Court to today be kept on record.

(Sabyasachi Bhattacharyya, J.)