

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 4422 of 2022

Md. Sahabuddin Dhukre
Vs.
State of West Bengal & Ors.

Mr. Sandeep Prasad Shaw,
Ms. Priyanka Gupta,
Ms. Itika Patra,
Mr. Kushal Kumar Pathak
... for the petitioner

Mr. Jahar Dutta,
Mr. Bipin Ghosh
...for the State

Mr. Sujit Sankar Koley
...for the WBSEDCL

Mr. Arindam Sen,
Mr. Sagnik Bhattacharya
...for the private respondent

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

Learned counsel appearing for the petitioner
submits that vide an order dated November 29, 2021
passed in WPO 541 of 2017, a Division Bench of this
court had, *inter alia*, directed the appropriate authority
to ensure that the building standing on the petitioner's
water body was not put to use and no electricity
connection should be granted to the building. The
appropriate authority was further directed to lock and
seal the building and to file necessary documents of

such action be taken, duly supported by photographs along with the affidavit-in-opposition.

It is contended that, taking undue advantage of the said interim order, the WBSEDCL has given unlawful notice for disconnection of the existing electricity connection at the said water body, although the illegally constructed portion of the building is likely to be demolished soon.

Learned counsel appearing for the private respondents categorically submits that the private respondent has a building on the said water body; however, the private respondent is agreeable to the unlawful portion of the building being demolished, pursuant to the direction passed by the Division Bench in WPO 541 of 2017.

Learned counsel appearing for the WBSEDCL submits that in view of the specific direction of the Division Bench not to give electricity connection to the building-in-question, the WBSEDCL has duly complied with the said direction by giving a prior notice of disconnection.

Upon perusing the order dated November 29, 2021 passed by the Division Bench, it is clear that there were different components of the operative portion of the same. Not only was the appropriate authority directed to lock and seal the building, it was also

directed to ensure that the building was not put to use and no electricity connection be given to the building.

There is no ambiguity in the aforesaid order. Since the building was *prima facie* held to have been illegally constructed and specific direction was given to the appropriate authority to lock and seal the building and to ensure that the building was not put to use and further that *no electricity connection should be granted to the building*, the WBSEDCL authority acted well within its jurisdiction in issuing the notice of disconnection of electricity supply in compliance with the letter and spirit of such direction.

Although the private respondent has expressed willingness to have the illegal construction demolished, it is evident from the submissions of the parties that the building is still standing on the plot demarcated as a water body. Hence, pursuant to the direction of the Division Bench, there is no scope of keeping the electricity connection to the building alive.

Hence there is no scope for interference in the present writ petition at this stage. Accordingly, W.P.A. No. 4422 of 2022 is dismissed.

However, this order shall not preclude the writ petitioner to apply for fresh electricity connection for use of pisciculture, etc. in respect of the water body solely, in the event the illegal building standing thereon is demolished in future.

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.

(Sabyasachi Bhattacharyya, J.)