

08.08.2022

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Court No.1
PA(BS)

**FMA 640 of 2022
With
CAN 1 of 2022**

**Parwej Alam
Vs.
CESC Limited & Anr.**
(Through Video Conference)

Mr. Bidyut Halder
Mr. Indranil Halder, Advocates
....for the Appellant

Mr. Rajiv Lall, Advocate
...for the CESC Limited

Rajarshi Bharadwaj, J:

By this appeal, the correctness of the order of the learned Single Judge dated 21.02.2022 passed in W.P.A. No 267 of 2022 (Parwej Alam-versus- CESC Limited and another) has been questioned by the appellant.

The appellant/writ petitioner had applied for a new electricity connection before the CESC authority and the CESC authority had not given such connection pursuant to which the writ petitioner moved a writ petition being W.P.A. No 267 of 2022 before the learned Single Judge. The writ petition was dismissed by the learned Single Judge, and thus, the appellant has filed the instant appeal.

The learned counsel for the appellant had submitted that the appellant was entitled to have electricity supply under Section 43 of the Electricity Act 2003 at his premises and despite having applied for such connection, the CESC authorities were sitting tight

over the matter. It was also contended that it was not for the CESC Limited to enter into the question of the lawfulness of the occupation of the appellant, as long as the appellant was in occupation of the premises.

The learned counsel for the CESC Limited pointed out several inconsistencies made in the writ petition. The appellant/writ petitioner stated that he was the owner of the said premises. However, it was shown before the learned Single Judge that the same stands in the name of one Msmt. Hazra Begum. Copy of the sanction plan of the building were not furnished by the petitioner. The appellant himself in unambiguous terms admitted that there was no building plan and hence he was unable to produce sanctioned building plan. Series of purported rent receipts produced by the petitioner before the CESC Limited also did not have the name of the appellant. No papers were produced to indicate that any document stands in the name of the appellant in respect of the said premises.

Lastly, no document produced or averment made in connection with the writ petition by the petitioner indicated or established the purported claim that Msmt. Hazra Begum, the landlord is the mother of the appellant and neither did the said lady file any application for electricity connection. Additionally, the petitioner had admitted of the pendency of a complaint under Section 401(A), Kolkata Municipal Corporation Act, 1980 and the proceedings were matters of record and that the building was constructed without any sanctioned plan. The contention that the municipal tax receipt of the building stands in the name of the appellant's mother was without any supporting document.

Having heard the counsel for parties and on perusal of records, this court is of the view that the

learned Single Judge correctly held that the petitioner blatantly resorted to incorrect statements to deliberately mislead the court. Even though Section 43 of the 2003 Act confers a right on an “occupier” of the premises to have electricity connection, the applicant of the new connection should be in “settled possession” of the property in question to be entitled to get an electric connection.

However, in the instant case, the appellant had failed to establish in any manner his possession in respect of the said premises. Thus, the question of Section 43 of the Electricity Act 2003 applying to the present case does not arise.

Hence, this Court finds no reason to interfere in the order of the Learned Single Judge.

For the foregoing reasons, the appeal is dismissed. All pending application are accordingly disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)