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08.07.2022.
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 11471 of 2022
with
IA No. C.A.N. 1 of 2022

Smt. Aparna Bera
-vs.-
West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Bikram Banerjee,
Mr. Sudipta Dasgupta,
Mr. Arka Nandi,
Mr. Sutirtha Nayek
...for the petitioner

Mr. Srijan Nayak,
Ms. Rituparna Maitra
...for the WBSEDCL

Mr. Soumen Kumar Dutta,
Mr. Subhadeep Chatterjee,
Mr. Sabyasachi Bhattacharjee
...for the proposed added party

In Re.:C.A.N. 1 of 2022

C.A.N 1 of 2022 has been taken up first for hearing.

This application has been filed for addition of party to the writ petition. The applicant refers to a previous writ petition, on which an order was passed on January 25, 2022, thereby disposing of the said writ petition, that is, W.P.A. No. 19906 of 2021, by directing the WBSEDCL to give new electricity connection to the private respondent, Smt. Aparna Bera (present writ petitioner), subject to the

private respondent therein complying with all other formalities, including production of a certificate from the relevant ground water authorities in that regard. In the event such formalities were complied with by the private respondent and the necessary costs deposited, the Distribution Licensee was to give electric connection within a week thereafter, it was directed.

In the present writ petition, the writ petitioner, who was permitted to take electricity connection in the previous order, as mentioned above, for her submersible pump upon compliance of all other formalities, contends that despite having complied with all other formalities, the WBSEDCL has not yet supplied electricity connection to the petitioner.

The bone of contention sought to be raised by the applicant in the addition of party application is that the applicant has interest in the matter since, raising objection to the present writ petitioner taking electricity connection, the present applicant had previously preferred the earlier writ petition, which was decided as indicated above.

However, *ipso facto* such filing of a previous writ petition does not automatically entitle the applicant herein to be added a party-respondent to the present writ petition.

The present writ petition revolves around a cause of action exclusively between the present writ petitioner and

the Distribution Licensee, inasmuch as the present writ petitioner complains that the WBSEDCL is not giving electricity connection despite the writ petitioner having complied with all formalities. As such, the applicant in C.A.N. 1 of 2022 is neither an interested nor a proper party in the present writ petition.

Accordingly, C.A.N. 1 of 2022 is dismissed on contest.

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The main writ petition is now taken up for hearing.

Learned counsel appearing for the petitioner contends that although it was stipulated in the order dated January 25, 2022 passed in W.P.A. No. 19906 of 2021, that upon compliance of all formalities, including production of a certificate from the relevant ground water authorities, the electricity connection would be given to the petitioner, the said direction has to be read in proper perspective, in the context of Section 7 of the West Bengal Ground Water Resources (Management, Control and Regulation) Act, 2005.

It is stipulated in the first proviso to Section 7(1) of the 2005 Act that where any user extracting or using ground water for irrigation or domestic purposes, sinks –

(a) any tube-well or hand-pump; or

(b) any well from which such extraction or use is made without the help of any mechanical or electrical devices

the said user is exempted from producing a SWID certificate from the ground water authorities.

It is clear that the submersible pump sought to be operated by the present petitioner requires electricity connection and involves electrical devices for its operation.

As such, the same cannot be categorized as a mere tube-well or hand-pump or any well from which extraction or use is made without the help of any mechanical or electrical device.

As such, there is no scope of the writ petitioner falling within the exempted category as stipulated in the first proviso to Section 7(1) of the 2005 Act.

Moreover, in the previous writ petition, this Court specifically directed the WBSEDCL to give electricity connection to the petitioner only subject to the petitioner complying with all formalities, “including the production of a certificate from the relevant ground water authorities in that regard”.

Since the writ petitioner herself has not complied with all the formalities, in particular production of a certificate from the relevant ground water authorities, the WBSEDCL cannot be blamed for not having given such electricity connection to the petitioner to operate her submersible pump.

However, the operation of the order dated January 25, 2022 passed in W.P.A. No. 19906 of 2021 still remains in force and the present writ petitioner, if she so chooses,

can take advantage of such direction by complying with all formalities including the production of a SWID certificate from the ground water authorities for the purpose of getting electricity connection even now.

However, there is no scope or occasion for judicial intervention in the present writ petition.

Accordingly, W.P.A. No. 11471 of 2022 is dismissed on contest in the light of the above observations.

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.)