

AD. 20.
July 5, 2022.
MNS.

WPA No. 11626 of 2022

Amit Agarwal (HUF)
Vs.
West Bengal State Electricity Distribution
Company Limited and another

Mr. Anuj Singh,
Mr. Siddhartha Roy,
Mr. Aman Agarwal,
Ms. Trinisha De,
Ms. Niharika Singh

...for the petitioner.

Mr. Sumit Kumar Panja,
Mr. Sumit Ray

...for the WBSEDCL.

The dispute involved in the present writ petition is of a short conspectus.

The petitioner apprehends that the Distribution Licensee, that is, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) is withholding restoration of the petitioner's electricity connection, which was snapped due to an incident of fire at the premises, on the ground of non-payment of a demand made by the WBSEDCL on the allegation that the petitioner was negligent, which caused the fire.

Learned counsel appearing for the WBSEDCL contends, by handing over a photocopy of a 'complaint docket handover report' of the WBSEDCL, which discloses the same number as that given by

the petitioner in the writ petition, submits that the same pertains to a complaint lodged by some other consumer and not the petitioner.

Learned counsel for the petitioner, on such issue, clarifies candidly that there was an inadvertent mistake in the pleadings of the writ petition inasmuch as the author of the complaint is concerned. However, it is sought to be clarified that the customer address given in the said complaint tallies with that of the petitioner's enterprise.

Be that as it may, the WBSEDCL takes a specific stand that the demand notice for compensation and damages to the tune of Rs.35,99,239/-, as claimed by the WBSEDCL from the petitioner and another, was a civil demand made by the WBSEDCL and *ipso facto* has no direct nexus with connection of the petitioner's electricity supply being restored or not.

However, it is contended by the WBSEDCL, that due to negligence on the part of the petitioner, the WBSEDCL is not in a position to immediately restore the electricity connection. That apart, it is submitted that after the fire broke out at the premises, the condition thereof is still dilapidated, which does not make it feasible for restoration of the electric connection at the present juncture.

Even without going into the allegations and counter-allegations of negligence made by the

parties *inter se*, it is evident from the submissions of the WBSEDCL as well as the nature of the claim, made on December 17, 2021 (Annexure-P2 at page 102 of the writ petition) that the same was a money claim simpliciter on the ground of compensation and damages upon the allegation that the petitioner was responsible for the massive destruction caused due to the fire-in-question not only to the petitioner's premises, but also to a sub-station of the WBSEDCL. Such claim, at best, could be a precursor to a civil suit or proceeding before a competent forum.

Thus, WPA No. 11626 of 2022 is disposed of by granting liberty to the WBSEDCL to pursue any legal recourse available to the WBSEDCL for recovery of the amount claimed as compensation by the notice dated December 17, 2021 against the petitioner and/or others before a competent civil forum.

It is, however, made clear that the said claim, *ipso facto*, shall not be a deterrent for the WBSEDCL to restore electricity supply of the petitioner, in the event other due formalities are complied with by the petitioner in that regard and in accordance with law otherwise.

If the petitioner is so entitled, the WBSEDCL shall give such restoration of connection at the earliest when the property regains its original

condition for it to be feasible for the electricity supply to be reconnected.

It is further clarified that the merits of the contentions of the parties in respect of the alleged negligence against each other have not been entered into at all by this Court and it will be open to the competent civil court or other authority to adjudicate the claim of the WBSEDCL on its own merits without being influenced in any manner by any of the observations made in this order.

Since affidavits have not been invited in the matter, it is deemed that the allegations made in the writ petition are denied by the respondents.

Nothing in this order shall prevent the WBSEDCL from disclosing the exact measures required to be taken by the petitioner to make it fit for the purpose of restoration of the electricity supply.

Such communication may be made at the earliest by the WBSEDCL to the petitioner, preferably within a fortnight from date.

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 with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)