

AD. 13.
July 6, 2022.
MNS.

WPA No. 12089 of 2022

Paritosh Mali
Vs.
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Soumen Kumar Datta,
Mr. Sabyasachi Bhattacharjee

...for the petitioner.

Mr. P. Das

...for the WBSEDCL.

Mr. Kaustav Chandra Das,
Sk. Sahjahan Ali

...for the respondent nos. 5, 6 and 8.

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

Learned counsel for the petitioner contends
that due to resistance being put up by respondent
nos. 5, 6 and 8, who are other co-sharers of the
property, the petitioner is not being given an
electricity connection by the West Bengal State
Electricity Distribution Company Limited (WBSEDCL)
at the premises-in-question, for the purpose of
running the petitioner's saw-mill.

Learned counsel for the Distribution Licensee
submits that the Distribution Licensee has no
objection otherwise, subject to compliance of due
formalities by the petitioner, to give such connection,
but due to resistance being put up by respondent

nos. 5, 6 and 8, the Distribution Licensee has not been able to give such connection to the petitioner.

Learned counsel for the respondent nos. 5, 6 and 8 submits that although the petitioner claims to have purchased the share of respondent no. 7 in respect of the property, the petitioner is not in possession of the property in any manner. Secondly, it is submitted that the petitioner does not have a valid permit, as contemplated in Section 4 of the West Bengal Forest (Establishment and Regulation of Saw-Mills and other Wood-based Industries) Rules, 1982 (1982 Rules) for the purpose of running such saw-mill. As such, the illegitimate purpose of running the saw-mil without such permit has been sought to be legitimized by the present application for giving electricity connection to the petitioner for such purpose.

It is seen from the provision of Section 4 of the 1982 Rules that every person intending to carry on business or occupation covered by the said Rules are to apply to the authorised Officer under the said Rules in the form as specified therein for licence.

However, neither the WBSEDCL nor the writ court the competent authority to decide on the issue raised by the respondent nos. 5, 6 and 8 as regards alleged illegality on the part of the petitioner in seeking to commence saw-mill operation without such permit.

Be that as it may, since the petitioner otherwise has a right, as co-owner, to take electricity connection at the premises under Section 43 of the Electricity Act, 2003 (2003 Act) and Article 21 of the Constitution of India, the respondent nos. 5, 6 and 8 cannot resist the petitioner from getting such connection subject, of course, to the petitioner complying with all legal formalities for the purpose of getting such connection as contemplated in law for running the saw-mill.

Hence, WPA 12089 of 2022 is disposed of by directing the WBSEDCL to give new electricity connection to the petitioner for the purpose of running the petitioner's saw-mill, subject to the petitioner complying with all formalities as contemplated for getting such connection and also subject to the petitioner having valid permit/licence, if required by any other Statute than the 2003 Act, for the purpose of running such saw-mill. Such connection, in the event of the petitioner complying with the aforesaid formalities, be given as expeditiously as possible, preferably within a fortnight from the date of compliance of such formalities by the petitioner or this order, whichever is later, subject to the petitioner furnishing all relevant documents to that effect with the WBSEDCL.

In the event there is any obstruction created by the respondent nos. 5, 6 and 8 and their men and

agents, despite the petitioner having complied with the formalities as indicated above, in giving connection to the petitioner, it will be open to the WBSEDCL personnel to approach the respondent no. 9, that is, the Officer-in-Charge, Egra Police Station, for the purpose of adequate police assistance, which shall be given by the respondent no. 9 in such case at the cost of the petitioner.

For the limited purpose of giving such connection to the petitioner, subject to compliance of all formalities, as indicated above, the police authorities will be at liberty, if necessary, to break open the padlock, if any, put up on the access of the WBSEDCL personnel for the purpose of giving such electricity 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 with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)