

S/L. 9.
July 8, 2022.
MNS.

WPA No. 13434 of 2022

Balkeshi Sah @ Shaw
Vs.
The State of West Bengal and others

Mr. Ranjit Roy,
Mr. Swapan Chakraborty

...for the petitioner.

Ms. Sreemoyee Mitra

... for the CESC Limited.

Mr. Munshi Mijanur Rahaman

...for the State.

Mr. Avijit Chakraborty

...for the private respondent.

Learned counsel for the petitioner contends that the private respondent/landlady is preventing the CESC Limited from giving electricity connection to the petitioner, although the petitioner is a tenant in respect of the premises.

Learned counsel appearing for the CESC Limited submits that in the event a direction is passed by this Court, the CESC Limited has no objection, in principle, to give such connection, although the CESC Limited stayed their hands in

view of a written objection to such installation of new electric meter having been given by the private respondent, which is also annexed at page 23 of the writ petition.

Learned counsel appearing for the private respondent controverts the contention that the petitioner is a tenant in respect of the premises. Although the petitioner's father was a tenant in respect of the premises, no death certificate of her father has been produced by the petitioner at any point of time to establish that she has inherited the tenancy right and is residing at the premises, it is argued.

However, it appears on a perusal of the documents annexed to the writ petition that the writ petitioner has produced copies of her 'Aadhaar Card' etc., which *prima facie* indicate that the petitioner is in occupation of the premises. Irrespective of the lawfulness of the occupation of the petitioner, it is well-settled that a person in settled occupation is entitled to get electricity connection within the purview of Section 43 of the Electricity Act, 2003 (2003 Act).

Hence, even without going into the question of right, title and interest of the parties to the property, the writ petition can be disposed of

with a direction on the CESC Limited to give such connection.

Hence, WPA 13434 of 2022 is disposed of by directing the CESC Limited to give a new and independent electricity connection to the petitioner upon holding an inspection, if found feasible, and subject to compliance of due formalities by the petitioner, as expeditiously.

It is expected that the inspection shall be held within a week from date, upon giving notice to the petitioner and the private respondent and, within a week from compliance of formalities by the petitioner, the connection shall be given to the petitioner, irrespective of the objection taken by the private respondent.

In the event the CESC Limited personnel face any hindrance and/or obstruction in doing so, it will be open to the CESC Limited personnel to approach the respondent no. 4, the Officer-in-Charge, Tollygunge Police Station, for adequate police assistance and if so approached, the respondent no. 4 shall give such assistance at the cost of the petitioner.

It is, however, made clear that the electricity connection in the name of the petitioner shall not, by itself, confer any special equity or

right, title and/or interest in favour of the petitioner with regard to the said property and it will be open for the private parties to the writ petition to canvass their respective contentions with regard to the property before any appropriate forum/court of law.

It is further made clear that if any padlock and/or other hindrance is put up by the private respondent no. 5 and her men and agents at the time of CESC Limited personnel visiting the premises for the purpose of either holding inspection or giving such connection to the petitioner, the police personnel will be at liberty to break open the padlock and/or remove such hindrance for the limited purpose of getting access for such inspection and/or installing new meter.

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.)