

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 14394 of 2022

Nadugopal Shinri
Vs.
The West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Mohinoor Rahaman,
Ms. Maria Rahaman,
Mr. Iqra Rahaman
...for the petitioner

Mr. Amitabh Shukla,
Mr. Prakash Chandra Pandey
...for the WBSEDCL

Learned counsel appearing for the petitioner submits that due to considerable inconvenience to the petitioner, an electricity connection was requested to be shifted, upon which the WBSEDCL communicated to the petitioner, indicating that the petitioner is liable to pay the shifting charges. The matter went up to the Ombudsman, who affirmed such position.

However, learned counsel for the petitioner contends that as per Section 17(1) proviso, only if compensation has been paid under Section 10(d) of the Indian Telegraph Act, 1885, such costs shall be paid by the person seeking such shifting of connection.

By placing reliance on sub-section (2) of Section 17 of the 1885 Act, learned counsel for the WBSEDCL submits that if the Telegraph-Authority omits to

comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

Upon hearing learned counsel appearing for the parties, it transpires that the Indian Telegraph Authority has the power to shift an electricity connection (telegraph line or post) from one part of a property to another or to higher or lower level or altered position.

However, as rightly contended by learned counsel for the petitioner, the proviso to sub-section (1) of Section 17 of the 1885 Act clearly provides for defrayment of the expenses of the removal or alteration to have a nexus with compensation paid under Section 10(d) of the 1885 Act.

The contention raised by the WBSEDCL, that such objection was not taken previously before any of the forums below by the petitioner, cannot be accepted since the said issue is a pure question of law, which can be agitated before any forum at any stage.

In view of the nature of the dispute, it has to be ascertained by the concerned District Magistrate as to whether any compensation is payable to the petitioner and/or as to the amount to be defrayed as expenses of removal or an alteration, if at all, by the petitioner.

Accordingly, W.P.A. No. 14394 of 2022 is disposed of by directing the respondent no. 5, that is, the District Magistrate, Purba Medinipur, to decide on the issue of entitlement of compensation of the petitioner in respect of the electricity connection-in-question as well as whether any expense for removal or alteration of the said connection has to be defrayed by the petitioner and, if so, the quantum thereof.

The District Magistrate shall decide the said issue upon giving adequate opportunity of hearing to all interested parties in accordance with law without being influenced in any manner by any of the observations made herein. Such exercise shall be completed by the respondent no. 5, that is, the District Magistrate, Purba Medinipur, as expeditiously as possible, preferably within eight weeks from the date of communication of this order to the District Magistrate.

The petitioner shall communicate this order, along with a server copy of the same as well as a copy of the writ petition, to the respondent no. 5 for the purpose of ensuring compliance of this order expeditiously.

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.)