

12th September,
2022
(AK)
07

W.P.A 15474 of 2022

Sk. Faruk Ali
Vs.
The State of West Bengal and others

Mr. Gazi Faruque Hossain
Ms. Priyaka Mondal
...for the petitioner.

Mr. Debanjan Mukherji
...for the WBSEDCL.

Mr. Swapan Kr. Pal
Ms. Tanusri Pal Chowdhury
...for the State.

Mr. S.M. Ismail
...for the respondent no.7.

Learned counsel for the petitioner contends that due to resistance and objection created by respondent no.7 of the present writ petition, who is the brother of the present petitioner, the WBSEDCL insisted upon production of a 'Way Leave Certificate' from respondent no.7 for the purpose of giving electricity connection to the petitioner.

Learned counsel appearing for the WBSEDCL submits that apart from the fact that an objection was raised by respondent no.7, it was alleged by respondent no.7 that a status-quo order was subsisting in respect of the property-in-dispute, along with a contempt application.

Although, on instruction, learned counsel for the WBSEDCL contends that the WBSEDCL is not a party to either of the said proceedings, in order to clarify the situation, learned counsel for the WBSEDCL seeks liberty to file an affidavit-in-opposition to put such allegations on record.

Learned counsel appearing for the respondent no.7 submits that there is a subsisting status-quo order in respect of the disputed property.

That apart, a contempt application, it is submitted, is pending in such connection as well.

It is submitted that the building constructed by the father of the private parties is suffering a notice of demolition from the local Panchayat.

Learned counsel hands over copies of two orders, respectively that dated July 10, 2018 passed by a coordinate Bench in W.P. 6219(W) of 2018 and dated February 12, 2021 passed in WPCRC 119(W) of 2019.

Both the said orders were passed by the Bench comprised of the Hon'ble Justice Subrata Talukdar.

Learned counsel appearing for the State hands over a police report indicating that the police were ready to give necessary assistance in the event this court so directs with regard to giving electricity connection to the petitioner.

Such report as well as the copies of the orders and a written instruction and alleged copy of a communication

by the Panchayat to the father of the petitioner and private respondent dated May 10, 2018 be kept on record.

It transpires from the photocopy of the order dated July 10, 2018 that although the court had recorded that it had been informed that following the filing of the said writ petition and the report of the respondent no.5/ the Pradhan, status-quo with regard to the existing level of construction over the plot/land-in-issue “was being maintained”, the coordinate Bench, while disposing of the writ petition by the said order, did not pass any order of status-quo at all.

As it appears from the other order, a photocopy of which has been handed over to court by learned counsel for respondent no.7, the same was passed in connection with a contempt application filed by the present private respondent no.7 alleging violation of the order of the learned Single Judge.

However, nothing in the said order indicates that any restraint order is there preventing the present writ petitioner from taking any electricity connection.

Although an allegation was recorded in the said order of the learned Single Judge that the plan, as per which the construction on the property was made, was in deviation of the original sanction plan and unlawful, such allegations were levelled not against the petitioner or the private respondent no.7 but against one Md. Zakaria, the father of the private parties herein.

The same is indicated in the letter dated May 10, 2018 issued by the Basubati Gram Panchayat, Singur, Hooghly addressed to the said Md. Zakaria.

However, nothing in the materials handed over on behalf of the respondent no.7 goes on to show that there is any subsisting order restraining the petitioner from lawfully exercising his right as conferred under Section 43 of the 2003 Act to get electricity at the premises.

Moreover, as a co-owner and in separate occupation of the property-in-question, the petitioner is entitled, as a corollary of the right to life, to get an individual electricity connection irrespective of the objection, if any, raised by the private respondent no.7 and/or any other co-owner.

Thus, the 'Way Leave Certificate' insisted upon by the WBSEDCL and the other perceived impediments in giving such electricity connection to the petitioner do not exist in the eye of law.

Hence, WPA 15474 of 2022 is allowed, thereby directing the WBSEDCL to give electricity connection to the petitioner in the petitioner's own name, as per the application of the petitioner, subject to compliance of all formalities by the petitioner, from the existing meter board position at the premises-in-question, as expeditiously as possible, positively within a fortnight from date.

In the event the WBSEDCL personnel face any obstruction from private respondent no.7 and/or his men

and agents in doing so, it will be open to the WBSEDCL personnel to approach respondent no.6, the Officer-in-Charge of the Singur Police Station, for giving adequate police assistance to the WBSEDCL personnel for the purpose of giving the new electricity connection to the petitioner.

The police personnel will be at liberty to break open any padlock or other hindrance, if put up on the way of the WBSEDCL personnel in having access to the existing meter board position, for the limited purpose of enabling the WBSEDCL to give such connection.

The parties as well as all concerned shall act on the written communication of the learned advocates for the parties, accompanied by server copy of this order, without insisting upon prior production of a certified copy, for the purpose of compliance.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)