

AD. 32.
February 2, 2022.
MNS.

(Through Video Conference)

WPA No. 17019 of 2021

Bikash Kumar Mondal @ Bikash Mondal

Vs.

The State of West Bengal and others

Mr. Debashis Banerjee,
Mr. Nilendu Chakraborty

...for the petitioner

Mr. Sujit Sankar Koley

... for the WBSEDCL.

Mr. Amitesh Banerjee,
Mr. Tarak Karan

...for the State.

Mr. Suddhadev Adak

...learned Special Officer.

Learned counsel for the petitioner argues that, exactly in front of the gate of the petitioner's property, an electric pole has been erected by the West Bengal State Electricity Distribution Company Limited (in short 'WBSEDCL'). Although the petitioner gave an objection prior to such pole being installed, it was not considered by the WBSEDCL and subsequently the electric pole was erected despite such objection.

The learned Special Officer appointed by this Court files a report today, which is kept on record.

Such report as well as the photograph annexed thereto clearly indicate that, although there is more

space beside the gate of the petitioner, the existing electric pole has not been erected in front of the gate, but a little distance away on the side.

Learned counsel for the petitioner, at this juncture, submits that the petitioner intends to install a second gate and/or widen the present existing gate for the purpose of properly using his godown, situated within the premises.

However, the petitioner cannot go on “changing goal posts after the game has started” and bring up new objections subsequent to the filing of the writ petition. In such manner, the litigant cannot be permitted to widen the scope of litigation at the litigant’s whims and fancies. As per the objection raised on the relevant date and the averments made in the writ petition as well as upon considering the Special Officer’s report, it is evident that the petitioner, although willing to pay the costs of shifting the electric pole, has no present cause of action for the removal of the electric pole, since the same is situated quite a distance away from the existing gate of the petitioner.

WPA No. 17019 of 2021 is accordingly dismissed on contest. However, it is made clear that this order will not prevent the petitioner from taking out any future application in appropriate form before the WBSEDCL for shifting of the electric pole in the event the petitioner satisfies the WBSEDCL *prima facie* that the petitioner is actually willing to open up a new gate and/or widen the

present gate. Upon such pleading being established, if at all, in future, it will be open to the WBSEDCL to shift the pole, if necessary, subject to compliance of all requisite formalities and at the costs of the petitioner without being prejudiced in any manner by any of the observations made in the present order.

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.)