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10.08.2022
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 16577 of 2022

Hafijul Saikh
Vs.
The Government of West Bengal & Ors.

Mr. Satyajit Mondal,
Mr. Amar Nath Sen,
Mr. Shouvik Naskar
...for the petitioner

Ms. Jhuma Chakraborty,
Mr. Aritra Ghosh
...for the State

Ms. Mitali Bhattacharya
...for the WBSEDCL

Learned counsel appearing for the petitioner submits that over the petitioner's *bastu* property, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) has installed a transformer. The installation of such high voltage transformer was resisted by the petitioner at the relevant juncture and subsequent representations were given for removal of the same. However, the WBSEDCL has not removed the same from the petitioner's property, thereby causing imminent risk of electrical and fire hazards to the petitioner.

Learned counsel appearing for the WBSEDCL submits that on an inspection being held by the WBSEDCL in connection with a proceeding initiated by

the petitioner under Section 144 of the Code of Criminal Procedure before the concerned Magistrate, it was found that a nine meter long PCC pole has been installed on a PWD land and not on the land of the petitioner.

Learned counsel appearing for the State contends that the State does not have any direct stake in the matter. However, since certain averments have been made with regard to the concerned police officer, learned counsel has instruction to appear.

Upon hearing learned counsel for the parties, it appears that the gamut of the dispute is within the domain of adduction of evidence and appreciation of the same. The writ court cannot and ought not, within the scope of its power of judicial review under Article 226 of the Constitution of India, enter into a factual enquiry upon taking evidence.

Hence, W.P.A. No. 16577 of 2022 is disposed of by granting liberty to the petitioner to refer the dispute to respondent no. 5, that is, the District Magistrate, South 24-Parganas.

Upon such reference being made, the District Magistrate shall decide such dispute in accordance with law upon giving adequate opportunity of hearing to all concerned, including the petitioner, the WBSEDCL and all other interested persons, if any, as

expeditiously as possible, preferably within eight weeks from the date of such reference.

It is made clear that the respective contentions of the parties have not been gone into on merits by this Court.

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.)