

8th September,
2022
(AK)
04

W.P.A 16860 of 2022

Neksad Mondal
Vs.
The State of West Bengal and others

Md. Kutubuddin
...for the petitioner.

Mr. Swapan Kr. Pal
...for the State.

Mr. Md. Mokaram Hossain
Mr. Saifuddin Sk.
Mr. Sandipan Maity
...for the private respondent.

Mr. Mihir Kundu
...for the WBSEDCL.

The grievance of the petitioner is that the private respondent has been given electricity connection for operating the latter's submersible pump *de hors* the law, inasmuch as no SWID certificate was produced from the Water Resources Investigation and Development Department at the time of taking such connection.

Learned counsel for the WBSEDCL files a report, annexed with a Circular which indicates that in respect of the private respondent's connection, no such SWID Certificate was necessary because the said motor pump was of five horse powers and since pumps of five horse powers and less are exempted from the purview of the requirement to file a SWID certificate.

Learned counsel for the petitioner places reliance on a judgment dated May 17, 2007 passed in W.P.325 (W) of 2007 by a coordinate Bench.

The distance and the discharge range of proposed tube wells and the related safe distance criteria were mentioned therein.

However, in view of the subsequent publication of the Circular dated November 3, 2011 by the Water Resources Investigation and Development Department, Government of West Bengal, which clearly stipulates that all wells fitted with electrometer pump set of five horse power or less are exempted from the purview of the West Bengal Ground Water Resources (Management, control and Regulation) Act, 2005, the ratio laid down in the cited judgment cannot have any bearing after the above change of law.

At present, the November 3, 2011 Circular prevails and the private respondent's pump is exempt from the purview of the 2005 Act.

Hence, there is no merit in the writ petition.

Accordingly, WPA 16860 of 2022 is dismissed on contest without any 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.)