

AD. 13.
February 7, 2022.
MNS.

(Through Video Conference)

WPA No. 19006 of 2021

Md. Moktar Sekh @ Moktar Sekh
Vs.

The West Bengal State Electricity
Distribution Company Limited and others

Mr. Prosenjit Mukherjee,
Ms. Tiya Ghosh

... for the petitioner.

Mr. Radha Mohan Ray

...for the WBSEDCL.

Mr. Rajarshi Basu,
Mr. K. M. Hossain

...for the State.

Learned counsel for the petitioner argues that despite having accepted money from the petitioner on account of requisite charges for giving a new electric connection to the petitioner for the purpose of operating a submersible pump of 6500 Watt, the West Bengal State Electricity Distribution Company Limited (in short 'WBSEDCL') is resiling from such position now on the ground that no way leave certificate has been produced, although the petitioner has already submitted a way-leave certificate.

Learned counsel appearing for the WBSEDCL, by filing a written notes of arguments, submits that, as per the petitioner's application for new electric connection, a submersible pump of 6500 watt, that is,

equivalent to a load of 8.71 HP is intended to be operated with the new electric connection. However, as per Notification no. 189/WRIDD/SECY issued by the Government of West Bengal, Water Resources Investigation & Development Department dated November 3, 2011, for all electromotor pumps having a load of 5 HP or more, applications for new connection are required to be accompanied by a SWID certificate and registration from the concerned Ground Water Resources Authority.

It is further contended that the objectors to the petitioner's application for new connection, namely, Abul Basar, Ali Asgar and Samsul Sk., as indicated in the written notes of arguments as well, have not yet given any way-leave certificate in favour of the petitioner.

In reply, learned counsel for the petitioner submits that the petitioner is agreeable to give an undertaking that the petitioner will be operating a submersible pump of a load less than 5 HP. If such an undertaking is given, it is submitted, the requirement as to SWID certificate or registration becomes irrelevant as per the exemptions mentioned in the Notification dated November 3, 2011.

Learned counsel for the petitioner points out to an exemption to the operation of the West Bengal ground Water Resources (Management, Control and Regulation) Act, 2005 in case of submersible pumps of load less than 5 HP.

It is apparent, upon hearing the parties and going through the materials on record, that the petitioner, whatever be his argument at the time of hearing, specifically applied for electric connection to operate a submersible pump of a load capacity above 5 HP, which would undoubtedly necessitate prior submission of a SWID certificate from the appropriate ground water resources authorities.

However, since the WBSEDCL is agreeable to return the quotation money to the petitioner without prejudice to the rights and contentions of the parties in the writ petition, the petitioner cannot stand prejudiced on that score.

As the petitioner is now agreeable to operate a submersible pump of load less than 5 HP, it will be open to the petitioner to apply afresh for a new electric connection for such purpose.

Accordingly, WPA 19006 of 2021 is disposed of by directing the WBSEDCL to refund the entire quotation amount deposited by the petitioner for taking new electric connection within a period of three weeks from date.

The petitioner shall be at liberty to apply for a fresh electric connection by specifying that the load of the submersible pump to be operated by such connection shall be less than 5 HP. In such event, the petitioner shall be exempted in terms of the Notification dated November 3, 2011, from producing any permit

from the appropriate ground water resources authorities.

In the event the petitioner applies afresh for electric connection to operate a submersible pump above the load of 5 HP, it will be incumbent upon the petitioner, apart from complying with other formalities and paying all other necessary charges, to produce SWID certificate and/or permit from the appropriate ground water resources authorities in that regard.

After the fresh application is made by the petitioner either way, the WBSEDCL will give such new connection to the petitioner, subject to compliance of all formalities, at the earliest thereafter.

As far as the way-leave certificate is concerned, in the event any objection is raised to the new application for electric connection made by the petitioner from any quarter, the WBSEDCL shall refer the dispute to the concerned District Magistrate, who will decide the issue in accordance with law, at the earliest after such reference, upon giving opportunity of hearing to all interested parties.

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.)