

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 18489 of 2022

M/s United Plastic Machinery Equipment
Vs.
Calcutta Electric Supply
Corporation & Ors.

Mr. Emon Bhattacharya,
Ms. Pooja Sah
...for the petitioner

Mr. Jayanta Kumar Dhar
...for the CESC Limited

Mr. Rama Prasad Sarkar
Ms. Debarati Sen Bose
...for the State

Mr. Abhijit Boral
...for the respondent no. 6

Learned counsel appearing for the petitioner contends that due to resistance put up by the private respondents, electricity connection is not being given to the premises-in-question.

Learned counsel appearing for the CESC Limited submits that the petitioner ought to apply afresh for a new electricity connection in the proper and correct name of the petitioner, which was incorrectly mentioned in the previous application. That apart, learned counsel appearing for the CESC Limited submits that the CESC Limited, at present, has no objection to give such connection to the petitioner,

subject to compliance of all formalities by the petitioner and applying afresh in the correct name.

Learned counsel appearing for the respondent no. 6 contends that the respondent no. 6 is the landlord of the petitioner in respect of the premises-in-question and has objection to such connection being given to the petitioner.

Learned counsel appearing for the State files a report, authored by the Officer-in-Charge, Chitpur Police Station, dated August 24, 2022. In the said report, it has inter alia been alleged that the Board of Auqaf, West Bengal, has directed the writ petitioner to submit its tenancy details as the leasehold property of one M/s. Atlas Union Jute Press Company Limited has been placed under the management of the Board of Auqaf, West Bengal, for a period of five years and later respondent no. 6, Burhan Ali Meerza, became the Mutawalli of the said Waqf Estate. It is also apparent from the annexure to the writ petition that, on behalf of the Mutawalli of the Waqf estate-in-question, an objection was raised to electricity connection being given to the petitioner and it was indicated that the Waqf Estate sought to institute a proceeding against the petitioner for eviction.

Inasmuch as the contention of learned counsel for the private respondent no. 6 is concerned, there is no scope of the landlord raising objection to any electricity

connection being given to a settled occupier in a disputed property. It is well-settled that a person in occupation of any property, irrespective of the lawfulness of the said possession, is entitled to get electricity supply under Section 43 of the Electricity Act, 2003.

Hence, the objection raised by the respondent no. 6 cannot be a relevant factor in considering whether the petitioner is entitled to get electricity connection.

Inasmuch as the Waqf Estate is concerned, since the Waqf Estate, through its Mutawalli, has specifically indicated that they intend to file an eviction suit against the petitioner, it is implicit in such communication that the Waqf Estate admits the petitioner to be in occupation of the premises.

As such, there cannot be any hindrance for the CESC Limited to give electricity connection to the petitioner, subject to the petitioner applying afresh in its correct name.

Hence, W.P.A. No. 18489 of 2022 is disposed of by granting liberty to the petitioner to apply afresh for a new electricity connection in its proper name.

Upon such application being made, the CESC Limited shall raise an offer letter/quotation as expeditiously as possible, positively within a week from the date of making such application.

Upon the petitioner complying with all necessary formalities and making payment as required in law on the basis of such offer letter, CESC Limited shall give a new electricity connection to the petitioner within a week from the compliance of all formalities by the petitioner.

In the event any obstruction is raised to the CESC personnel giving such connection to the petitioner from the end of the respondent no. 5 and/or respondent no. 6, it will be open to the CESC personnel to approach the respondent no. 4, that is, the Officer-in-Charge, Chitpur Police Station, for necessary police assistance in that regard.

Upon such approach being made by the CESC personnel, if at all necessary, respondent no. 4, that is, the Officer-in-Charge, Chitpur Police Station, shall act on the written communication of the learned Advocate for the petitioner, accompanied by a server copy of this order, without insisting upon prior production of a certified copy thereof and provide adequate assistance to the CESC personnel in giving such connection to the petitioner, at the cost of the petitioner.

If necessary, the police personnel will be at liberty to break open any padlock or other obstruction physically created to hinder the access of the CESC personnel to the existing meter board position at the

premises for giving such new electricity connection to the petitioner.

It is, however, made clear that the respective contentions raised by the private parties with regard to the right, title and entitlement of the petitioner in respect of the property, have not been gone into by this Court in any manner, apart from the fact that the petitioner is in *prima facie* occupation of the disputed property. It will be open to the parties to agitate all issues in respect of right, title and interest in any litigation, which may be pending or will be initiated in future, irrespective of the observations made herein.

It is made clear that the aforesaid direction also includes an opportunity to the CESC personnel to inspect the premises for the purpose of ascertaining feasibility of giving the connection to the petitioner. In the event any resistance is put up on such occasion, the direction incorporated in this order with regard to police help shall be deemed to stand extended to such instance as well.

Report filed by learned counsel for the State be kept on record.

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.)