

14th September,
2022
(AK)
07

W.P.A 19321 of 2022

Shyamali Nayek and another
Vs.
The West Bengal State Electricity Distribution Company
Limited and others

Mr. Timir Baran Saha
...for the petitioner.

Ms. Mitali Bhattacharya
...for the WBSEDCL.

Mr. Suvadeep Sen
...for the respondent nos. 7, 8 & 9.

Learned counsel for the petitioners argues that despite a specific direction of a coordinate Bench of this court dated December 3, 2021 passed in WPA 18265 of 2021 for the Director of Boilers to take a decision and to ensure that the Rice Mill of the private respondents does not operate without a valid license, subsequently by suppression of the said fact the private respondents obtained an order of status-quo from the civil court, that is, the Second Court of Civil Judge (Junior Division) at Burdwan.

It is argued that if the direction of the Director of Boilers dated January 20, 2022, passed pursuant to the order of the coordinate Bench is considered, it will be evident that on the date of the status-quo order, the said

direction specifically stood with regard to the Rice Mill of the private respondents, including the boiler, not to be operated without a valid boiler certificate if the partnership firm of the private respondents is not reconstituted in accordance with the law.

Hence, the petitioners' objection to continuance of electricity supply to the private respondents for operation of the Rice Mill unlawfully ought to have been allowed by the WBSEDCL by disconnecting the said electricity supply.

Learned counsel appearing for the WBSEDCL submits that there was a previous order of this court, which is also relied upon by learned counsel for the petitioners, wherein it was observed that the WBSEDCL shall be at liberty to proceed in accordance with law and take penal measures in the event of default in further payment of electricity bills by the private respondents.

However, since the said electricity charges are being regularly paid, the WBSEDCL has no immediate cause of action for disconnecting the electricity supply to the Rice Mill of the private respondents.

Learned counsel for the private respondents disputes the allegations as to unlawful operation of the Rice Mill-in-question.

It is submitted that as on the date when the status-quo order was passed, that is, March 29, 2022, the

private respondents were still operating the Rice Mill and electricity connection had not been severed, which is the situation till today.

It is submitted that the petitioners, in fact, admits that the private respondents are continuing to operate the Rice Mill, but seeks to interpret the status-quo order in the light of the order of the Director of Boilers.

A scrutiny of the materials-on-record indicates that, undoubtedly, as of today the order of the Director of Boilers directing the partnership firm of the private respondents not to operate the Rice Mill and the boiler, if the partnership firm is not reconstituted in accordance with law, stands in full force.

However, read in conjunction with the order of the civil court dated March 29, 2022 passed in Title Suit No. 144 of 2022 pending before the Second Court of Civil Judge (Junior Division) at Burdwan, status-quo with regard to the said property is required to be maintained by both the parties to the said suit, including the present petitioners and the private respondents.

Whatever may be the immediate effect of the order dated January 20, 2022, it is open to the writ petitioners to take appropriate steps in that regard, on the allegation that the private respondents are violating the said order, before the appropriate forum.

However, as of today, in view of the subsistence of the civil court's status-quo order, a further direction of disconnection of the electricity supply to the private respondents' Rice Mill, irrespective of its operation being lawful or unlawful, would tantamount to this court virtually reversing the status-quo order passed by the civil court without having jurisdiction to do so.

Hence, WPA 19321 of 2022 is disposed of by granting the petitioners liberty to approach the civil court for vacating and/or modification of the status-quo order and/or taking any other adequate measures which are available to the writ petitioners in law before the civil court.

The petitioners shall also be at liberty to approach the competent authority for alleged disregard of the order of the Director of Boilers dated January 20, 2022 and/or the order passed by the learned Single Judge in WPA 18265 of 2021.

If such allegations are made, nothing in this order shall prejudice the rights and contentions of the parties therein and it will also open to the private respondents to mount their defence in the said proceedings respectively.

Since no affidavits have been called for, it is deemed that the allegations made in the writ petition are denied by the respondents.

There will be no 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.)