

AD-09
Ct No.09
14.09.2022
TN

WPA No. 20163 of 2022

Gobinda Patra
Vs.
The State of West Bengal and others

Mr. Gazi Faruque Hossain,
Ms. Priyanka Mondal

.... for the petitioner

Mrs. Anwari Quraishi,
Mrs. Zainab Tahur

.... for the State

Ms. Suvasree Ghose

.... for the WBSEDCL

Ms. Madhumita Patra

.... for the respondent no.7

Learned counsel for the petitioner contends that the petitioner has been permitted access over a passage in front of the plots of the petitioner as well as the private respondent for the purpose of ingress and egress in respect of the petitioner's property, since about 20 years back. In fact, the previous passage existing at the rear of the plots was blocked for exclusive use by the private respondent to get access to and from his plot no.938.

Recently, the petitioner has made a construction on his own plot, that is, plot no.939 and sought an electricity connection to the said premises. However, when the connection was sought to be given by the

West Bengal State Electricity Distribution Company Limited (WBSEDCL) over the passage which is being used as a common passage for the last 20 years, the private respondent objected to the same, due to which the electricity connection could not be given to the petitioner.

Learned counsel for the WBSEDCL, upon query of court, contends that two written objections were filed by the private respondent to the electricity connection being given to the petitioner.

However, it is feasible, according to the WBSEDCL, to give such connection over the common passage used at present.

Learned counsel appearing for the private respondent controverts the contentions of the petitioner and submits that the construction has, in fact, been made on plot no.938, which belongs to the private respondent, unlawfully and not on plot no.939, which belongs to the writ petitioner. Hence, the private respondent vehemently objects to the electrification of the said construction by taking an electricity line over the passage, which will tantamount, according to the private respondent, to legalizing the unlawful construction made by the petitioner.

Copies of the written objections filed by the private respondent before the WBSEDCL, which are handed over to court for perusal, shall be filed by learned counsel for the WBSEDCL during the course of the day to be tagged with the file.

It is clear from both the said objections that its basis was that the electricity connection sought to be given to the writ petitioner was being given over the land of the private respondent. There is no specific allegation in consonance with the present arguments of learned counsel for the private respondent in the said objections, to the effect that the construction made by the writ petitioner was unlawful.

Since the electricity connection is being sought to be given by the WBSEDCL over the existing passage in front of plot nos.939 and 938, belonging to the petitioner and the private respondent respectively, and the private respondent is already enjoying electricity connection at the adjacent plot no.938, there cannot be any reason for refusing the same privilege, which is in fact a right under Section 43 of the Electricity Act, 2003, to the writ petitioner.

Hence, WPA No. 20163 of 2022 is disposed of by directing the WBSEDCL to give electricity connection via its proposed route over the existing passage to the petitioner, as expeditiously as possible, positively

within three weeks from the date of compliance of all formalities by the petitioner. In the event any obstruction is offered by the private respondent no.7 and/or his men and agents, the WBSEDCL personnel shall be at liberty to approach respondent no.6, that is, the Officer-in-Charge, Chanditala Police Station, Hooghly, who will give sufficient police protection to the WBSEDCL personnel for the purpose of giving such connection to the petitioner and for making the ancillary installations for such purpose at the cost of the petitioner.

Nothing in this order shall, however, preclude the private respondent from canvassing his grievance as regards alleged illegality in the construction being made by the writ petitioner before the appropriate forum. If such an approach is made, such forum shall decide the issue in accordance with law without being influenced in any manner on the merits of the issue by any of the observations made herein. It is further expected that the WBSEDCL shall ensure that the minimum inconvenience is caused in giving such electricity connection to the petitioner, to the private respondent and/or the other neighbours, if any.

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.)