

S/L. 61.
September 9, 2022.
MNS.

WPA No. 20497 of 2022

Sanjay Jaiswal
Vs.
CESC Limited and another

Mr. Bidyut Halder,
Mr. Indranil Halder

... for the petitioner.

Ms. Sumouli Sarkar

...for the CESC Limited.

Learned counsel for the petitioner submits that the petitioner applied for new electricity connection for the first time but the same was refused by the CESC Limited vide communication dated May 23, 2022 (Annexure P/1 at page 9 of the writ petition) on the ground that more than one application in favour of the petitioner at the above premises was under process.

Learned counsel appearing for the petitioner candidly submits that the wife of the petitioner had previously applied for an independent electricity connection, which had been rejected on the ground of splitting of load. When the same was challenged before this Court, the writ petition was dismissed by this

Court, *inter alia*, on the ground that the limitation for challenging the decision of the CESC Limited on the ground of splitting of load had expired.

However, it is submitted that the petitioner and his family are without electricity in the premises and, as such, the rights of the petitioner as a tenant are being grossly hampered.

Learned counsel also places reliance on a judgment of the Supreme Court in the case of *Dilip (Dead) through LRS Vs. Satish and others* {2022 Live Law (SC) 570}, wherein it was observed that electricity is a basic amenity of which a person cannot be deprived. Electricity cannot be declined to a tenant on the ground of failure/refusal of the landlord to issue no objection certificate. All that the electricity supply authority is required to examine, it was held in the said judgment, is whether the applicant for electricity connection is in occupation of the premises-in-question.

There cannot be any quarrel with such proposition, which is well-settled in law. However, the facts of the present case do not match exactly with those of the cited decision and the fact-situation in which such ratio was laid down by the Supreme Court.

Even if the petitioner, as a tenant, has a right to get electricity connection, in view of the rejection of the previous application for the self-same reason in respect of the same premises by the petitioner's spouse on the ground of splitting of load, in the absence of any allegation or apprehension of their relation *inter se* being strained, the petitioner's identical application was rightly rejected by the CESC Limited. Such ground still exists and the petitioner has not yet been able to show that the circumstances have changed.

Hence, the refusal of the CESC Limited was justified and ought not to be interfered with by the writ court.

Accordingly, WPA No. 20497 of 2022 is dismissed without any order as to costs.

However, nothing in this order shall prevent the petitioner from approaching the appropriate forum (Controller/Civil Court or otherwise) for adequate relief with regard to not getting electricity supply from the existing electricity connection at the premises. If such an approach is made, the said forum/court shall decide the issue independently without being

prejudiced in any manner by the present rejection of the writ petition.

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.)