

D/L. 4.
December 20, 2022.
MNS.

WPA No. 23807 of 2022

Protima Pathak
Vs.
The State of West Bengal and others

Mr. Pinaki Bhattacharyya

... for the petitioner.

Mr. Radhamohan Ray

...for the WBSEDCL.

Mrs. Kavita Rani

...for the private respondent no. 5.

Learned counsel for the petitioner contends that the petitioner was given an electricity connection at her premises, which was subsequently disconnected by neighbours, including the private respondent. Subsequently, the petitioner sought for a new electricity connection at the premises.

The present writ petition has been filed in such context seeking a direction on the West Bengal State Electricity Distribution Company Limited (WBSEDCL) to give such connection to the petitioner.

It transpires from the report filed today, upon an inspection being held by the WBSEDCL pursuant to the direction of Court, that an alternative route than over the private respondent's property, which goes over a PWD property, is feasible for giving the new electricity connection to the writ petitioner.

A diagram has been annexed along with the report, which indicates the location of the said proposed connection.

It is further submitted that a flash pole has to be installed for the purpose of giving connection over the proposed route. Such flash pole has to be installed not on the property of the private respondent, but on a PWD property, in front of the said property.

Learned counsel for the private respondent categorically opposes the contentions of the petitioner. It is submitted that the petitioner is seeking to take electricity connection over the private respondent's property, which cannot be done, in the absence of consent on the part of the private respondent.

It is seen from the sketch map annexed to the report of the WBSEDCL that the proposed new connection is required to be given primarily

over a PWD road. There is nothing on record, *prima facie* or final, to indicate that the said road belongs to the private respondent.

Since the WBSEDCL has to decide the veracity and feasibility of the route over which the connection can be given and as the report clearly indicates that there is a possible alternative route than the private respondent's property, which goes over a PWD land, no impediment can be put up by the private respondent to such electricity connection being given to the petitioner over the alternative route, as indicated in the map.

In any event, if the private respondent has any objection to the effect that the property over which the alternative route is suggested also lies within the periphery of the private respondent's property or traverses the private respondent's property at certain junctures, it will be open to the private respondent to approach the concerned District Magistrate seeking a proper disconnection of the said connection given to the petitioner.

However, the right, title and interest over the property, as claimed by the private respondent, can only be canvassed and decided in a competent civil court having jurisdiction.

Hence, WPA No. 23807 of 2022 is disposed of by directing the WBSEDCL to give electricity connection to the petitioner over the alternative route as indicated in the sketch map annexed to the inspection report filed by the WBSEDCL today, which is kept on record.

In any event, if the private respondent has any objection to the effect that such alternative route also runs over the property of the private respondent, it will be open to the private respondent to approach the concerned District Magistrate with the dispute.

If so approached, the District Magistrate shall decide the issue in accordance with law upon giving adequate opportunity of hearing to all concerned without being influenced in any manner by any of the observations made herein.

It will also be open to the petitioner and the private respondent, if so necessary, to approach the competent civil court to thrash out their respective contentions as to right, title and interest with regard to the property-in-question.

Needless to say, the Civil Court shall decide on such issue, if raised, on its own merits also without being influenced in any manner by

any of the observations made in connection with the writ petition.

The parties shall act on the written communication of the learned advocates for the parties, accompanied by a server copy of this order, without insisting upon prior production of a certified copy thereof for implementation of the same.

The connection shall be given by the WBSEDCL to the petitioner subject to compliance of all formalities and on payment of due costs by the petitioner, preferably within a fortnight from the compliance of all such formalities by the petitioner.

In the event any obstruction or any hindrance is put up by the private respondent and/or her men and agents from giving electricity connection over the alternative route to the petitioner, it will be open to the WBSEDCL personnel to approach the local Police Station, on which the Officer-in-Charge/Inspector-in-Charge, as applicable, of the said police station shall grant such assistance to the personnel of the WBSEDCL at the cost of the petitioner.

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.)