

AD-03
Ct No.09
01.12.2022
TN

WPA No. 24300 of 2022

Md. Akbar Ali Laskar
Vs.
West Bengal State Electricity Distribution Company
Limited and others

Mr. Soujanya Bandyopadhyay
.... for the petitioner

Mr. Kanak Kiran Bandyopadhyay
.... for the WBSEDCL

Mr. Swapan Kr. Pal
.... for the State

Mr. Sounak Bhattacharya,
Mr. Sounak Mandal
.... for the private respondent

The grievance of the petitioner is that there was a dispute between the petitioner and the private respondent no.7 with regard to taking of electricity connection by the private respondent.

Ultimately, the matter came up to this court, and being referred by this court, was resolved by the District Magistrate.

Learned counsel places reliance on the photocopy of the certified copy of the Magistrate's order annexed to the writ petition, in particular, Order No.3 dated August 05, 2022 passed by the District Magistrate, South 24 Parganas. Vide the said order,

the Magistrate accepted an alternative path suggested at the behest of the representatives of the West Bengal State Electricity Distribution Company Limited (WBSEDCL) and others and directed the WBSEDCL to give electricity connection to the private respondent over the said alternative passage.

However, it is contended that subsequently the said alternative path was not adhered to by the WBSEDCL for reasons best known to them and the connection has been ultimately given over a different path than that which was directed by the Magistrate, which also runs over the petitioner's property.

Learned counsel for the WBSEDCL submits that the WBSEDCL, despite its best intentions, could not adhere to the alternative passage suggested by it and accepted by the Magistrate because of resistance having been offered by several people, purportedly having their residence over the adjoining land, through which the alternative passage runs.

Although police help was taken, when the WBSEDCL personnel went on site to give the connection over the alternative passage, even with the help of police, it was not possible to implement the same and, as such, a third passage beyond the suggestion of the parties has been adopted.

Learned counsel appearing for the private respondent submits that there has been no challenge to the order of the District Magistrate. Having attained finality, the same ought not to be disturbed now. It is submitted that the Magistrate had specifically directed electricity connection to be given to the private respondent herein, which was given by the WBSEDCL with police help. As such, the private respondent ought not to suffer for any deviance from the original route, which was accepted by the Magistrate.

A perusal of the documents and the hand sketch map annexed to the writ petition indicates that the electricity connection to the private respondent, indeed, was given over a different passage than the alternative path accepted by the Magistrate on the report of the WBSEDCL.

As such, there cannot be any scope of sustaining the said electricity connection given to the private respondent unlawfully, in violation of the District Magistrate's order.

However, since the petitioner has already given a representation to the Magistrate alleging about the violation of the Magistrate's order, particularly in the context of the fact that there are third parties to the present litigation who have specifically objected to the electricity connection being taken over the accepted

alternative path, it would only be proper if the Magistrate gives a fresh hearing to the parties, including the WBSEDCL, the present petitioner and the private respondent as well as the subsequent objectors, and decides afresh the route over which electricity connection should be given to the private respondent.

Upon such consideration and giving opportunity of hearing to all concerned, the District Magistrate shall re-decide the issue and adjudicate on the question as to the path over which the electricity connection ought to be given to the private respondent.

It is made clear that in the event there is no other option but to traverse somebody else's property for the purpose of giving the electricity connection to the private respondent, the same may be done to the limited extent necessary, upon ensuring that proper compensation is given for such damage, if any, to the persons whose property is affected.

The entire exercise as indicated above shall be concluded by the Magistrate expeditiously, positively within two months from date.

It will be open to the Magistrate to take appropriate steps and give proper directions upon

such re-adjudication with regard to the connection being given to the private respondent.

However, in view of the patent factual position that the present connection has been given to the private respondent by the WBSEDCL over a third route without reference to the Magistrate, there is no need of further relegating the matter to the Magistrate for the purpose of deciding afresh as to whether there was any violation or not.

Since the connection was given illegally and *de hors* the direction of the Magistrate, the WBSEDCL shall disconnect the same within a week from date upon prior notice to the petitioner and the private respondent.

However, it is made clear that such disconnection shall not, *per se*, adversely affect or prejudice the right of the private respondent to take independent electricity connection and the District Magistrate, upon a fresh reconsideration as directed above and upon necessary further enquiry, if required, decide on the question as to the route which has to be adopted for giving such connection, in the light of the observations made above.

WPA No. 24300 of 2022 is disposed of accordingly, expecting that the time-line framed above

shall be adhered to strictly by the District Magistrate, South 24 Parganas.

The police report, filed today be learned counsel for the State, be kept on record.

At this juncture, learned counsel appearing for the private respondent prays for a stay of operation of the order passed by this court. However, in view of the violation of the order of the Magistrate being patent from the materials on record, it transpires that the private respondent does not have a *prima facie* triable case to go for an appeal.

Accordingly, the prayer for stay is refused.

However, the above observations shall not affect the rights of the private respondent to take recourse to law and prefer an appeal against this order before the Division Bench having determination.

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.)