

AD-27
Ct No.09
14.12.2022
TN

WPA No. 27038 of 2022

Sri Vikash Kumar Singh
Vs.
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Anindya Lahiri,
Ms. Pranati Das

.... for the petitioner

Mr. Mihir Kundu

.... for the WBSEDCL

Learned counsel for the petitioner contends that the petitioner has all along been enjoying an electricity connection for running a school at the premises-in-question. However, when the petitioner asked for an increase in the load of electricity, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) refused to give it, insisting upon prior production of a 'Way Leave Permission'. Learned counsel appearing for the petitioner files a supplementary affidavit with leave of court, annexing a communication made by the WBSEDCL on December 06, 2022, that is, subsequent to the filing of the writ petition, which indicates that a previous electricity connection at the same premises in the name of one Sri Rajesh Bose, son of the private respondent, Smt. Sukla Bose was disconnected.

Learned counsel appearing for the Distribution Licensee contends, by placing reliance on the subsequent communication annexed to the supplementary affidavit, that the previous connection was in respect of a different portion of the premises than at which the electricity was being enjoyed previously by the petitioner.

However, since the said electricity supply was disconnected due to non-payment of electricity dues and the outstanding dues are substantial, the WBSEDCL is entitled to recover such outstanding dues from the petitioner.

It is contended that there is patent nexus between the petitioner and the defaulter inasmuch as the electricity connection for both the portions of the premises were being used for running the school. Moreover, the enhancement of load has been sought, as per the allegation of the WBSEDCL, to cover up the disconnection of the previous electricity supply in the name of Sri Rajesh Bose, to cater to the electricity requirement of the same portion which was being catered to by the previous connection.

Upon perusing the documents on record, it is clear that the WBSEDCL has refused to enhance the electricity load on the request of the petitioner merely on the ground of absence of 'Way Leave Permission'.

However, since the petitioner is in settled occupation of the property and running a school therefrom, the petitioner is entitled to use such electricity connection, particularly since they have all along been enjoying the existing electricity connection at the premises, irrespective of any further way leave permission being produced from any quarter.

In any event, the petitioner pleads acrimony with the landlord and, as such, there is no scope of the petitioner producing such Way Leave Certificate.

That apart, no regulation or law has been cited which mandates the clearance of the outstanding dues in respect of a different electricity connection, *albeit* at the same premises, at the juncture when, for a different connection, an enhancement of load has been sought. The present case is not one where the petitioner is seeking a new electricity connection or restoration of the previously disconnected electricity supply. Hence, the Regulation as regards clearance of outstanding dues is not applicable at all.

Furthermore, since no Way Leave Permission is required for the petitioner to have his existing load factor enhanced, such insistence of the WBSEDCL is *de hors* the law.

As such, WPA No. 27038 of 2022 is disposed of by directing the WBSEDCL to immediately process the

application of the petitioner for enhancement of load factor with regard to the existing electricity connection at the premises in the name of the petitioner and to give such enhancement of load subject to the petitioner complying with all due formalities but without insisting upon prior production of a Way Leave Permission, as expeditiously as possible, preferably within three weeks from the date of compliance of formalities by the petitioner.

It is, however, made clear that nothing in this order shall preclude the WBSEDCL from claiming its outstanding dues or taking appropriate steps as sanctioned by law for the recovery of such outstanding dues in respect of the defaulting meter. If such an action is taken by the WBSEDCL, the same shall be culminated in accordance with law without being prejudiced in any manner by any of the observations made herein.

In the event any obstruction is raised by private respondent no.4 and/or her men and agents in the WBSEDCL inspecting the premises for the purpose of enhancing the load factor and/or giving effect to such enhancement, it will be open to the WBSEDCL officials to approach respondent no.5, the Inspector-in-Charge, Bidhan Nagar (North) Police Station. If so approached, the respondent no.5 shall act on the

communication letter 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 giving such assistance to the WBSEDCL personnel at the cost of the petitioner. In the event any padlock or other hindrance is put up by the private respondent and/or her men and agents to the WBSEDCL personnel in undertaking any of the activities as directed above, it will be open to the police personnel to remove such padlock and/or hindrance to implement the direction.

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.)