

20th December,
2022
(AK)
01

W.P.A 28019 of 2022

Falguni Mukherjee
Vs.
The State of West Bengal and others

Mr. Sabyasachi Chatterjee
Mr. Subhas Chandra Atha
Ms. Payel Paramanik
...for the petitioner.

Mr. Shouveek Ray
...for the WBSEDCL.

Mr. Debnath Ganguly
Mr. Supriyo Dutta
Mrs. Aishwarya P. Ganguly
...for the respondent no.5.

Mrs. Sudipa Ray
Mr. Srinath Singha Roy
...for the State.

Learned counsel for the petitioner contends that, by the impugned notice dated December 12, 2022, the WBSEDCL asked the present writ petitioner, allegedly in compliance of an order of this court, to apply for permanent disconnection of the petitioner's own electricity connection vide Consumer ID 201616804 at village-Krishnanagar within three days from the receipt of the letter.

Learned counsel submits that although the petitioner is suffering from an order of demolition, which has been upheld up to the Division Bench of this court, at

present, a Special Leave Petition is pending against the said order of the Division Bench.

As such, learned counsel argues that the said notice is incorrect on facts.

Inasmuch as the law is concerned, it is argued that there is no provision under which such a notice could be given to the petitioner.

Learned counsel appearing for the WBSEDCL submits that although there was no specific direction by the Division Bench to issue such a notice, in view of the demolition order being passed and sustained by the Division Bench, the continuance of the electricity connection of the petitioner may be hazardous inasmuch as the building and the neighbourhood is concerned.

Learned counsel for the private respondent submits that the private respondent is a neighbour of the petitioner, and on the complaint of the private respondent, the demolition order had been passed.

Such order, it is submitted, has been upheld up to the Division Bench of this court.

As such, it is argued that mere pendency of an SLP against the said order cannot operate as automatic stay of the order of the Division Bench and/or as a restraint order in favour of the petitioner.

Heard learned counsel for the parties.

Nowhere in either of the orders, of the learned Single Judge or the Division Bench directing demolition, has it been indicated that the WBSEDCL is required to issue a notice of the sort as issued by it on December 12, 2022.

Inasmuch as the law is concerned, learned counsel for the petitioner is justified in arguing that no such law exists which confers blanket powers on any Distribution Licensee to ask a consumer to apply for disconnection of her/his own electricity connection.

Hence, the impugned notice is palpably bad in law.

Accordingly, WPA 28019 of 2022 is allowed, thereby setting aside the impugned notice dated December 12, 2022, issued by the WBSEDCL against the petitioner.

It is made clear, however, that nothing in this order shall preclude all concerned to take adequate steps in accordance with the law inasmuch as the demolition order is concerned.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)