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18.04.2023
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 428 of 2020

Shyamal Kumar Jana
Vs.
West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Abhijit Sarkar
...for the petitioner

Affidavit-of-service filed in Court today be kept on
record.

Despite service, none appears for the respondents.

The petitioner has given a representation to the
Distribution Licensee, that is, the West Bengal State
Electricity Distribution Company Limited (WBSEDCL),
seeking to draw attention to the allegation that the
private respondent is allegedly an illegal occupier of the
premises and has been using the electricity connection
given to him by the WBSEDCL in unauthorized
manner.

It is submitted that the said representation has not
yet been considered by the WBSEDCL.

It is well-settled that an occupier, if in settled
possession of a property, irrespective of the legality or
otherwise of such possession, is entitled to get
electricity connection under Section 43 of the

Electricity Act, 2003, read in conjunction with Article 21 of the Constitution of India.

As such, on the score of alleged illegality of the occupation of the private respondent, the WBSEDCL is not the competent authority in law to decide such issue, particularly in view of the fact that a civil suit is pending before the competent court between the parties.

However, inasmuch as the other limb of the allegation is concerned, that the private respondent is giving electricity connection to local street-shops and is taking money from them, the same, if true, would tantamount to unauthorized use of electricity, calling for immediate action on the part of the WBSEDCL.

Hence, W.P.A. No. 428 of 2020 is disposed of by directing the WBSEDCL to enquire into the allegation of unauthorized use of electricity by the private respondent, as per the representation dated November 04, 2019 (annexure P-4 at page 13 of the present writ petition), as expeditiously as possible, preferably within a fortnight from the date of communication of this order to the WBSEDCL and to take steps in accordance with law, consequent to the outcome of such enquiry.

However, it is made clear that the alleged illegality of the possession of the private respondent shall not be a decider in such consideration by the WBSEDCL, since all questions in that regard shall be decided by

the competent court where a civil suit is pending between the parties.

All parties shall act on the server copy of this order without insisting upon prior production of a certified copy thereof.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)