

AD-03
Ct No.09
24.04.2023
TN

WPA No. 4762 of 2023

Sri Suman Ghosh
Vs.
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Kajal Ray,
Mr. Suman Nandi

.... for the petitioner

Mr. Debjit Mukherjee

.... for the WBSEDCL

Learned counsel for the petitioner, by placing reliance on the exception filed by the petitioner to the inspection report of the West Bengal State Electricity Distribution Company Limited (WBSEDCL), submits that there are at least three alternative locations where the proposed transformer can be installed. It is further submitted, by placing reliance on the photographs annexed to the exception, that the second transformer which is sought to be installed succeeds another similar transformer which is already existing very close to the second.

Instead of installing two transformers in such close vicinity, both adjacent to the petitioner's premises, thereby depreciating the commercial value of the said premises, it could well be possible to shift the same to one of the alternative locations; in

particular, a vacant space nearby, which is also evident from the photographs annexed respectively to the report and the exception.

The petitioner, in a worst case scenario, is also agreeable to shifting of one of the limbs of the proposed transformer elsewhere, away from the petitioner's property.

Learned counsel appearing for the Distribution Licensee submits that several documents of title have been handed over by the different objectors to all the alternative locations pointed out by the petitioner. As such, shifting of the transformer to some other place would entail further complications.

Upon a consideration of the submissions of both sides, it is clear that there is palpably a dispute with regard to not only the place where the transformer is at present proposed to be installed but also the alternative locations for the same suggested by the petitioner. Since the WBSEDCL relies on the fact that the Distribution Licensee is working for public benefit, the same cannot be stalled indefinitely.

However, at the same time, it is beyond the charter of the writ court to decide questions of fact, which are disputed, by assessing the evidentiary value of documents produced by the objectors and the petitioner.

In such view of the matter, WPA No. 4762 of 2023 is disposed of by granting liberty to the petitioner to approach the concerned District Magistrate having territorial jurisdiction in the locality, with the issue as raised in the present writ petition. If so approached, the District Magistrate shall act on a server copy of this order for the purpose of compliance and decide the dispute in accordance with law, upon giving opportunity of hearing to the petitioner, all the objectors, the WBSEDCL and all other concerned, as expeditiously as possible, positively within eight weeks from the date of such reference being made to the District Magistrate.

The petitioner shall make the reference latest within a week from date.

It is made clear that the merits of the contentions of the parties and/or the objectors have not been gone into by this court and it will be open to the concerned District Magistrate to decide all such issues in accordance with law.

The WBSEDCL shall not install the proposed new transformer at its currently proposed location prior to such adjudication by the District Magistrate. Upon the District Magistrate having decided the issue, it will be open to the parties to proceed in accordance therewith.

Since no affidavits have been called for, it is deemed that all the allegations made in the writ petition are denied by the respondents.

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.)