

16th May,
2023
(AK)
29

W.P.A 5275 of 2023

Nasir Hossain Khan
Vs.
West Bengal State Electricity Distribution Company
Limited and others

Mr. Satyendra Agarwal,
Mr. Tarak Nath Sarkar,
Ms. Sikha P. Chowdhury
...for the petitioner.

Ms. Suvasree Ghose
...for the WBSEDCL.

Mr. S. Bera
...for the respondent nos.13 to 17.

Affidavits in opposition and reply filed in court today
be kept on record.

Learned counsel for the petitioner contends that
despite the West Bengal State Electricity Distribution
Company Limited (WBSEDCL) having clearly disclosed in
its report that it is feasible to give a new electricity
connection to the petitioner over the passage-in-question,
the same is being disrupted by the private respondents.

Learned counsel for the private respondents argues
that even as per the admission in the writ petition itself,
in particular paragraph 6 thereof, there are several
alternative ways of giving connection other than the
passage-in-question.

Hence, there is no particular reason why the
connection should be given over the passage, which is
under the exclusive ownership of the private respondents.

It is further argued that the private respondents have no objection otherwise to the petitioner taking electricity connection over an alternative passage without disturbing the passage of the private respondents.

Learned counsel for the WBSEDCL places reliance on the report filed previously by the WBSEDCL upon holding a joint inspection.

It is indicated there that it is not possible to take electricity connection for the petitioner from the eastern side. However, only from the western side can such line be given to the petitioner.

Since the private respondents' alleged property is on the western side, there is no other option but to give the connection over the passage-in-dispute.

Upon hearing learned counsel for the parties, it is evident that there is an existing dispute between the parties with regard to the ownership of the passage.

Whereas the petitioner claims that the same is a common passage, the private respondents claim exclusive ownership over the same.

In such regard, a civil suit is pending at the behest of the private respondents bearing no. Title suit No. 13 of 2022, in which the private respondents/plaintiffs applied for an order of injunction.

However, vide order dated January 29, 2022, the Civil Judge (Junior Division) at Ghatal, District: Paschim Medinipur, refused the *ad interim* prayer for injunction prayed by the private respondents.

A perusal of the said order indicates that the injunction sought by the plaintiffs/private respondents was to restrain an electricity connection from being given for domestic supply to the present petitioner.

In view of refusal of such *ad interim* prayer, it does not lie in the mouth of the private respondents to reiterate that the petitioner is not entitled to take electricity connection over the said passage.

In any event, the electricity connection by itself shall not create any special right, equity or interest in favour of any party.

On the contrary, the petitioner has a right under Section 43 of the Electricity Act, 2003 to get a new electricity connection.

Since the WBSEDCL itself is of the opinion that the passage is the only feasible path to give such electricity connection, there is no further impediment for such connection to be given.

Accordingly, WPA No. 5275 of 2023 is allowed, thereby directing the WBSEDCL to give a new electricity connection to the petitioner at the petitioner's premises over the disputed passage, subject to compliance of all formalities in that regard by the petitioner, positively within four weeks from the date of such compliance of formalities by the petitioner, by installing a new PCC pole, for such purpose, if necessary.

In the event any obstruction is offered by the private respondents to the WBSEDCL personnel from doing so, it

will be open to the WBSEDCL personnel to approach respondent no.10, the Officer-in-Charge of the Daspur Police Station, for adequate police assistance.

Upon such approach being made, the respondent no.10 shall act on a server copy of this order and grant such assistance to the WBSEDCL personnel at the cost of the petitioner.

It is, however, made clear that nothing in this order or the electricity connection, if given to the petitioner, shall create any special equity, right or interest in favour of the petitioner which the petitioner does not otherwise have.

Such connection, furthermore, shall also be without prejudice to the rights and contentions of the petitioner and the private respondents in the pending civil suit between the parties.

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.)