

ML-02
Ct No.09
02.01.2023
TN

WPA No. 5364 of 2022

Dhritibrata Mondal
Vs.
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Prosenjit Mukherjee,
Ms. Tiyasa Ghosh

.... for the petitioner

Mr. Sumit Ray

.... for the WBSEDCL

Learned counsel for the petitioner repeatedly argues that despite two previous orders of a coordinate Bench of this court directing electricity to be given to the petitioner over a common passage, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) is not giving such connection.

Learned counsel for the WBSEDCL submits that the WBSEDCL personnel took all efforts to give connection over the said property but were not able to do so due to resistance by certain specifically named objectors.

Accordingly, the police authorities also sought to help the WBSEDCL personnel, but failed due to the resistance of several local people led by the said objectors. A First Information Report (FIR) to that

effect was lodged in terms of the request of the Sub-Inspector of the Joynagar Police Station, naming such objectors.

It is seen from the records that the said objectors had raised such objection previously as well. It is submitted by learned counsel for the WBSEDCL that the said objectors had been impleaded on the previous occasion when the petitioner had obtained a similar order from a coordinate Bench in a writ petition.

A perusal of the annexures to the writ petition indicates that there were two previous orders passed by a coordinate Bench, each directing the WBSEDCL authorities to give electricity connection to the petitioner. Such orders were passed despite the objection raised by the local villagers.

It is further seen that the WBSEDCL did not falter in its duty in seeking to give such connection to the petitioner.

The Amin's report, on the basis of which the BL&LRO has submitted a report, indicates that the passage over which the petitioner seeks electricity connection is a common passage as shown in the relevant records. It also transpires from the report that the passage is not being used by the villagers as a common passage.

As such, it has been *prima facie* established that the passage-in-question was indicated as a common passage in the records.

However, in the present case, not only the named objectors, who are about six in number, but according to the police authorities, 50-60 local villagers are obstructing the electricity connection being given to the petitioner over such alleged passage.

On the other hand, the WBSEDCL, in its report filed in this court, also indicates that there is an alternative brick-built 5 ft passage, over which the electricity connection can also be given to the petitioner. At page-18 of the said report (Annexure R-8 to the report), the WBSEDCL mentions that they had selected a clear 5 ft wide brick road, the entrance pathway to the domestic premises of the writ petitioner, without disturbing the adjacent residents, but the petitioner has opposed to draw the LT line over that pathway to effect the service connection. It is also mentioned in such communication by the WBSEDCL to the petitioner that the latter has shown another way which is full of trees and consists of land of other people. In spite of having a clear way to effect the service connection of the petitioner, the same could not be made due to resistance by the petitioner

himself, in terms of the report as submitted by WBSIEDCL and as evident from the communication dated April 26, 2017 made by the WBSIEDCL to the petitioner.

There palpably exists a dispute with regard to the user of the passage-in-question. Although it has been indicated in the report of the Amin that the same was indicated as 'Rasta' (road/path), it has been mentioned by the Amin himself that the passage is not being used for such purpose.

That apart, even in the opinion of the WBSIEDCL, the said pathway is full of trees and consists of land of other people and there is a clear alternative passage over a 5 ft wide brick road, the entrance pathway to the domestic premises of the petitioner himself, for giving such service connection to the petitioner.

Since the people of the neighbourhood are objecting to the electricity connection being taken by the petitioner and particularly in view of the availability of a clear alternative passage over the petitioner's own land for giving the service connection sought by the petitioner, the orders of the coordinate Bench of this court, if read harmoniously with the documents on record, indicate unerringly that the service connection should be given to the petitioner

over the 5 ft brick road, which is the alternative route indicated by the WBSEDCL.

As such, there need not be involved unnecessary show of power to crush and bulldoze the rights and objections of other people in the neighbourhood for the purpose of giving electricity connection to the petitioner, particularly in the teeth of the availability of an alternative passage over the petitioner's own entrance way for giving such service connection.

In view of the above circumstances, WPA No. 5364 of 2022 is disposed of by directing the WBSEDCL to give electricity service connection to the petitioner as asked for by the petitioner, but over the clear 5 ft wide brick road, at the entrance pathway to the domestic premises of the petitioner, without disturbing the adjacent residents, as indicated at page-18 of the report filed by the respondent nos.1 and 2, as expeditiously as possible.

A quotation for such purpose indicating the costs involved shall be given by the WBSEDCL within a week to the petitioner.

Upon compliance of all formalities and payment of the dues, the WBSEDCL shall give the electricity connection to the petitioner as expeditiously as possible thereafter, positively within three weeks from

the date of compliance of all formalities by the petitioner.

It is made clear that the civil rights of the parties and third persons to the present litigation have not been dealt with at all while passing the above order and it will be open to all concerned to approach a competent civil court in the event there is a civil dispute between the parties.

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.)