

17th April,
2023
(AK)
09

W.P.A 7133 of 2023

Jafar Ali Sekh
Vs.
The Chairman, West Bengal State Electricity Distribution
Co. Ltd. and others

Mr. Khairul Alam
...for the petitioner.

Mr. Debanjan Mukherjee
...for the WBSEDCL.

As per previous direction, the WBSEDCL has intimated on April 10, 2023 to the petitioner as to what are the exact requirements to be complied with by the petitioner for getting an electricity connection.

It transpires from the same that the WBSEDCL has taken a stand that since the petitioner's contract was deemed to stand terminated in view of more than 180 days having elapsed after the previous disconnection, a new connection has to be effected at the premises as per Clause 4.6.4 of the W.B.E.R.C. Regulation No.55.

The WBSEDCL has further cited Circular Number 202/SWRIDL dated November 16, 2011 of the Water Investigation and Development Department, Monteswar block, which has been categorized as semi-critical, for which production of a SWID Certificate of registration/permit for the new service connection at the

existing tubewell has also been insisted upon by the WBSEDCL.

Learned counsel for the petitioner vociferously opposes such stand taken by the WBSEDCL.

It is submitted that on previous occasion, upon being so asked to pay, the petitioner has already deposited all outstanding dues in favour of the WBSEDCL.

At that juncture, the WBSEDCL did not take the objection as to a new connection being required to be taken by the petitioner.

Hence, it is submitted that the WBSEDCL is estopped now from turning around and asking for production of a SWID Certificate at the current juncture, by treating the application of the petitioner to be an application for a new electricity connection.

A perusal of the documents annexed to the writ petition undoubtedly shows that the WBSEDCL had indicated the outstanding dues payable by the petitioner, which were apparently paid up by the petitioner.

However, it is well-settled that there cannot be any estoppel against statute.

Since the regulations framed by the WBERC under the Electricity Act, 2003 have the force of law, it can very well be said that Clause 4.6.4 of Regulation 55 of the WBERC, which contemplates that after expiry of 180 days

from disconnection, it is deemed that the contract between the consumer and the licensee is terminated, automatically comes into play with statutory force behind it.

Hence, it cannot be said that there was an estoppel by the WBSEDCL against the statute.

As such, the argument of the WBSEDCL regarding a new connection being required to be taken by the petitioner is justified.

As per the submission of the WBSEDCL, Circular No.202/SWRIDL dated November 16, 2011 designates the zone as a semi-critical one and the WBSEDCL has insisted upon production of a SWID certificate as required under the West Bengal Ground Water Resources (Management, Control and Regulation) Act, 2005, which cannot be faulted.

The petitioner's contention that the SWID certificate already submitted by the petitioner in the year 2014 at the relevant juncture of taking the electricity connection for the first time ought to be treated as sufficient compliance of the directive of the circular cannot be accepted, since the previous connection of the petitioner having been disconnected for more than 180 days, the previous contractual relationship between the consumer and the WBSEDCL also stands terminated by operation of Clause 4.6.4 of Regulation No.55.

Thus, in view of such deemed termination of contract between the parties, it is incumbent upon the petitioner to produce a current SWID Certificate as per the law governing the field, treating the application to be an application for a new electricity connection.

Moreover, since the provisions regarding demarcation of zones as critical and semi-critical is vital for the maintenance and preservation of balance in the eco system, it would only be appropriate that the petitioner produces a current SWID Certificate before a new connection is given to the petitioner.

The SWID Certificate submitted in the year 2014 cannot be a valid replacement for a current SWID Certificate, in view of the number of years elapsed in the meantime and the possible deterioration in the area concerned with regard to ground water resources during the interregnum.

Hence, pursuant to the requirements indicated by the WBSEDCL by its letter dated April 10, 2023, the petitioner is granted liberty to submit a current SWID Certificate for getting a new electricity connection from the WBSEDCL.

Upon due compliance of all formalities by the petitioner, including production of a current SWID certificate, the WBSEDCL shall give such new connection to the petitioner as expeditiously as possible, preferably

within a fortnight from the compliance of all formalities by the petitioner, including the production of the SWID Certificate.

W.P.A.7133 of 2023 is accordingly disposed of in the light of the above observations.

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.)