

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 7631 of 2023

Smt. Pampa Maji
Vs.
The West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Animesh Paul,
Mr. Mridul Dutta
...for the petitioner

Mr. Srijan Nayak,
Ms. Rituparna Maitra
...for the WBSEDCL

Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee,
Mr. K. Bhattacharya,
Mr. S. Chakraborty
...for the respondent no. 4

The petitioner sought for an electricity connection but was refused such connection on several grounds.

By placing reliance on the communication by the West Bengal State Electricity Distribution Company Limited (WBSEDCL), annexed at page 24 of the writ petition, the said fact is reiterated by learned counsel for the petitioner.

It is contended by learned counsel appearing for the WBSEDCL that the petitioner applied for a new electricity connection and the WBSEDCL does not have any objection on principle to give such connection. However, written objection has been filed by one Rupen

Maji and one Indrani Maji with regard to such connection being given.

Learned counsel appearing for the private respondent no. 4 submits that there are several disputes pending between the private respondent and the present petitioner insofar as the alleged right of the husband of the petitioner to run a business from the property-in-question is concerned.

It is further submitted that an eviction suit is pending at the behest of the private respondent against the petitioner. That apart, a partition suit is also pending at the instance of the petitioner, where the private respondent is also a party.

It is submitted that the private respondent was conferred a right by the father of the petitioner to run a commercial endeavour in the property in question. However, such right is sought to be interdicted by the petitioner by way of taking an electricity connection in the name of the petitioner, who has, otherwise, no *locus standi* to seek such electricity connection.

It appears from the records and the submissions of the parties that the settled possession of the husband of the petitioner is undisputed, since the private respondent admittedly has instituted an eviction suit against the petitioner's husband. There is nothing on record to indicate that the relationship between the petitioner and her husband is strained and

she lives elsewhere than the property-in-question. It is the specific submission of the private respondent that the electricity connection sought is a ploy for the petitioner to be inducted to the commercial endeavour sought to be commenced by her husband. Hence, it is obvious that the petitioner is also an occupier of the property with her husband and, as such, entitled under Section 43 of the Electricity Act, 2003 to get a new service connection in her own name.

As regards the objection of the WBSEDCL, the same loses relevance for the following reasons:

Firstly, no ownership/land documents are required to be submitted by the applicant apart from documents relating to the applicant's *prima facie* possession with regard to the property-in-question.

Secondly, the objection of Rupen Maji and Indrani Maji are based on certain pending litigations, which cannot be prejudged in the present writ petition. Irrespective of such pendency, the petitioner is entitled to get electricity connection in respect of the property-in-question.

Thirdly, the objection as regards an existing commercial connection being there at the premises in the name of the private respondent cannot create any impediment to give a new connection in the name of the petitioner, because due to pendency of the litigations, a strained relation between the private respondent and

the petitioner is very obvious and it cannot be said that there would be a splitting of load in respect of the same premises.

Fourthly, pendency of a criminal case before the Executive Magistrate does not have any bearing on the right of the petitioner to get an electricity connection.

Hence, the objections raised by the WBSEDCL in giving the petitioner a new service connection are turned down.

Accordingly, W.P.A. No. 7631 of 2023 is allowed, thereby directing the WBSEDCL to give a new service connection to the petitioner as early as possible, preferably within a fortnight from date or the date of compliance of formalities by the petitioner in that regard, whichever is later.

It is clarified that the WBSEDCL shall not insist upon the compliance of any of the formalities as per their communication dated February 14, 2022 (annexure P-4 at page 24 of the writ petition) for giving a service connection to the petitioner.

It is further clarified that nothing in this order or the fact of the electricity connection being given to the petitioner shall create any special right or equity in favour of the petitioner, if she is otherwise not entitled in law to the same and/or prejudice the rights and contentions of the private respondent in the litigations pending between the parties.

If any resistance is offered by the private respondent and/or his men and agents to the WBSEDCL while giving such connection, it will be open to the WBSEDCL personnel to approach the respondent no. 3, the Inspector-in-Charge, Sankrail Police Station for adequate police assistance.

If so approached, the respondent no. 3 shall provide such police assistance to the WBSEDCL personnel to give such connection to the petitioner, at the cost of the petitioner.

In the event any padlock is affixed and/or hindrance is created by the private respondent no. 4 in order to prevent the access of the WBSEDCL personnel in doing so, the same will be removed by the police personnel.

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.)