

AD-17
Ct No.09
19.05.2023
TN

WPA No. 8802 of 2023

Sheikh Aminuddin

Vs.

West Bengal State Electricity Distribution Company
Limited and others

Mr. Sarwar Jahan,
Ms. Shaila Afrin,
Mr. David Fransis

.... for the petitioner

Ms. Suvasree Ghose

.... for the WBSEDCL

Mr. Biswajit Sen,
Mr. Sohhom Sau

.... for the added respondents

Learned counsel for the petitioner argues that the petitioner seeks to take an industrial connection of about 6000 watt for the purpose of operating a lathe factory as well as welding workshop.

However, it is contended that the private respondents, due to certain political reasons, are objecting to such connection being taken. Although the private respondents have contended that the area is a residential location, there are several other existing industrial connections of similar nature and/or of higher wattage in the near vicinity of the premises where the electricity connection is sought by the petitioner.

It is further argued that the purpose for which the connection is sought is not an obnoxious, hazardous or polluting industry and, as such, the ratio of the judgment cited by the private respondents is not applicable.

Learned counsel appearing for the private respondents submits that the writ petition is bad for non-joinder of all objectors and/or co-sharers to the property.

Secondly, in a partition suit pending between the parties and others, an order of *status quo* has been passed.

Thirdly, the area is a close-knit area and has a dense population. Being a residential location, the industrial connection ought not to be given to the said area, since the same would give rise to electricity pollution and fire hazards.

Learned counsel for the private respondents also places reliance on *Delhi Pradesh Citizen Council vs. Union of India and another*, reported at (2006) 6 SCC 305, where the Supreme Court had gone on to observe that certain polluting substances and obnoxious, hazardous, inflammable, non-compatible processes would not be permitted in residential areas.

Upon hearing learned counsel for the parties, several disputed questions of facts are seen to be involved in the present matter.

First, whether the petitioner is entitled to take electricity connection of an industrial nature in the residential area and/or whether such connection shall contravene any law of the land.

Secondly, whether other industrial connections of similar nature have been given in the said area, which would entitle the petitioner also to take such connection.

Thirdly, whether all the objectors have been impleaded in the dispute.

That apart, the exact nature of the business for which the petitioner seeks the industrial connection, in the context of *Delhi Pradesh Citizen Council* (supra), has also to be ascertained on facts. For ascertaining such questions, detailed evidence is required to be looked into and hearing ought to be given to the parties.

However, the Writ Court, within its limited scope, is handicapped from deciding such disputed questions of fact on taking evidence.

Since the law envisages that objection as to laying of electricity lines are to be referred to the District Magistrates, it would only be proper if the

present dispute is also decided by the concerned District Magistrate.

Accordingly, WPA No. 8802 of 2023 is disposed of by granting liberty to the petitioner to carry the dispute as raised in the present writ petition to the concerned District Magistrate having territorial jurisdiction in the area. If so approached, the District Magistrate shall give adequate opportunity of hearing to the petitioner, the respondents as well as all other objectors and interested parties and upon giving such hearing, decide the disputes between the parties in accordance with law, as expeditiously as possible. It is expected that the entire exercise shall be completed within eight weeks from the date of such reference being made to the concerned District Magistrate.

It is made clear, however, that this court has not entered into the merits of the allegations raised by the parties against each other and it will be open to the District Magistrate to decide all issues independently without being influenced in any manner by any of the observations made herein.

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.)