

D/L. 6.
April 24, 2023.
MNS.

WPA No. 8805 of 2023

Sk. Anwar Ali
Vs.
The State of West Bengal and others

Mr. Mrityunjoy Goswami,
Mr. Parikshit Goswami

... for the petitioner.

Mr. Kamalendu Ghose,
Mr. Raja Ghosh

...for the State.

Mr. Debanjan Mukherjee

...for the WBSEDCL.

Affidavit-of-service filed in Court today be
kept on record.

The grievance raised in the present writ
petition is that the petitioner, a cultivator, came to
know subsequently that an electricity transformer
has been installed on the petitioner's land.

It is contended that the petitioner is the
owner of such land and even after the petitioner
raised an objection subsequent to the installation
of the transformer, no steps have been taken by
the West Bengal State Electricity Distribution
Company Limited (WBSEDCL) for shifting of the
same from the petitioner's land.

Learned counsel appearing for the WBSEDCL submits that the objection was taken by the petitioner long after the installation of the transformer. Moreover, not a single scrap of paper has been produced to indicate that the petitioner is the owner of the land.

Section 10 of the Indian Telegraph Act, 1885 (in short “1885 Act”), which is applicable to electricity lines as well, provides that the authority may, from time to time, place and maintain a line under, over, along, or across, and posts in or upon any immovable property. However, the said power is circumscribed in proviso (d) of the said Section with the rider that if any damage is done to the property of any person, full compensation has to be paid to such person.

Section 16 of the 1885 Act, on the other hand, provides that if the exercise of the powers mentioned in Section 10 of the 1885 Act is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them. Section 16(3) of the 1885 Act provides that in case any dispute arises concerning the sufficiency of the compensation to be paid under

Section 10, clause (d), the District Judge shall adjudicate the issue.

However, in the present case, the petitioner has not claimed any compensation as yet, but merely asked for shifting of the transformer from his alleged land. As such, Section 16(3) of the 1885 Act is not attracted at this stage.

In so far as Section 16(1) is concerned, the resistance or obstruction under the contemplation of the said provision is to be raised at the juncture when the installation is sought to be made, which has long elapsed in the present case. Hence, the only provision which may come to the benefit of petitioner, subject to the petitioner establishing that he has any interest in the property, is Section 10, proviso (d).

Hence, WPA No. 8805 of 2023 is disposed of by granting liberty to the petitioner to apply in appropriate format for due compensation from the WBSEDCL by producing supporting documents in respect of the petitioner's interest with regard to the property where the transformer-in-question has been installed.

If such an application for compensation is filed by the petitioner, the WBSEDCL shall give

opportunity of hearing to all concerned, including the petitioner, and decide the same in accordance with law as expeditiously as possible, preferably within eight weeks from the date of such application being made by the petitioner.

It is made clear that the merits of such proposed claim for compensation have not been gone into by this Court and it will be open to the authorities to decide such issue in accordance with law.

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.)