

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 13260 of 2023

Smt. Labani Khan
Vs.
CESC Limited & Ors.

Mr. Bidyut Kumar Halder,
Mr. Indranil Halder,
Ms. Srabanti Das,
Ms. Neha Singh
...for the petitioner

Dr. Madhusudan Saharoy
...for the CESC Limited

Learned counsel appearing for the petitioner prays
for extension of the interim order granted earlier.

Learned counsel appearing for the Calcutta
Electric Supply Corporation Limited (CESC Limited)
files a report, which indicates that, on an inspection
held in the presence of the petitioner, the CESC-
authorities came to the conclusion that it was not
feasible to install the transformer-in-question in some
alternative location at the locality, due to the reasons
as indicated in the report.

It is stated in the report, inter alia, that one of the
alternative locations shown by the petitioner is
crowded by devotees of the temple situated on such
location. The other is a public sitting space where
residents, including senior citizens of the locality,

gather and spend their leisure time. Even for installing a transformer at the latter space, a demolition of the structure would be necessary. Hence, it is submitted that it is not feasible to install the transformer in such alternative spaces.

Learned counsel appearing for the petitioner refutes the contents of the report and seeks to file an exception to the same. However, the fact-finding enquiry which has to be gone into by this court for deciding the issue regarding availability of alternative space to install the transfer is beyond the scope of the writ court.

Hence, W.P.A. No. 13260 of 2023 is disposed of by granting liberty to the petitioner to approach the concerned District Magistrate having territorial jurisdiction over the matter with the disputes as raised in the present writ petition regarding installation of transformer.

Such approach shall be made by the petitioner in due process of law within a week from date.

Upon being so approached, the District Magistrate concerned shall decide the issue in accordance with law upon giving opportunity of hearing to all concerned as expeditiously as possible, preferably within four weeks from the date of such application being made to the District Magistrate.

It is made clear, however, that nothing contained in the writ petition and/or the report filed today shall be deemed to be admitted by the respondents and/or the writ petitioner respectively and it will be open to both parties to re-open all issues before the concerned District Magistrate.

The District Magistrate shall decide the issues independently without being influenced by any of the observations made herein and/or any of the pleadings made before this writ court.

Till the dispute is resolved by the District Magistrate, the disputed transformer shall not be electrified by the CESC Limited. However, this order shall be subject to the orders passed by the District Magistrate at the final hearing of the matter.

It is also made clear that in default of the petitioner to file the application within a week before the Magistrate, the writ petition shall be treated to be disposed of without any extension of the interim order passed therein.

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.)