

D/L. 7.
June 28, 2023.
MNS.

WPA No. 13332 of 2023

M/s. APCON and another
Vs.
West Bengal State Electricity Distribution
Company Limited and others

Mr. Lakshman Chandra Halder,
Mr. Balaram Patra

... for the petitioners.

Dr. Mashusudan Saha Roy

...for the WBSEDCL.

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

Learned counsel for the petitioners argues
that the petitioners were not served with a copy of
the Enquiry Report and the other relevant reports
on the basis of which the respondent authorities
fixed responsibility on the petitioners regarding
payment of compensation, which was ascertained
to the tune of Rs.4,50,440/-. It is argued that no
opportunity of hearing was given to the petitioners
in so far as the petitioners were not served with
all relevant copies of documents.

That apart, in the impugned decision dated
May 18, 2023, which is annexed to the present
writ petition, the submissions of the petitioners

and/or the contents of the petitioners' representations were not reflected at all. Hence, it is submitted that since the petitioners concerned had no role to play in the concerned accident, for which electrocution took place and damages were given, the entire order impugned herein ought to be set aside.

Learned counsel appearing for the West Bengal State Electricity Distribution Company Limited (WBSEDCL) places reliance on the order of this court dated April 5, 2023, which is also annexed to the writ petition, and submits that the question of liability was conclusively determined therein. It is further contended that all the documents, which are relevant in the context, were handed over to the petitioner or, at least, annexed to the affidavit-in-opposition of the WBSEDCL in the previous writ petition and were considered by the Court.

Only upon such consideration, the order was passed directing the WBSEDCL to give a notice to the petitioner and decide the compensation upon giving an opportunity of hearing to the petitioner.

In the context of the allegations made by the writ petitioner, the order dated April 5, 2023

passed in WPA No. 17816 of 2018 in the previous round of litigation between the parties is required to be looked into.

Certain salient features of the same are required to be mentioned herein. First, it is seen that learned counsel for the petitioner, as recorded in the said order of this Court, had then submitted that in the “Accident Enquiry Report” of the WBSEDCL itself, which was relied on by the petitioner, Clause 9 was clearly in consonance with the statement of one Sanjoy Mondal.

That apart, there are further references by the petitioner to such report. In fact, it is found in internal page 2 of the said order dated April 5, 2023 that learned counsel for the petitioner has also placed reliance on Clause 7 of the Additional Observations of the Accident Enquiry Committee appointed by the WBSEDCL, which was recorded in the order to have been annexed at page 27 of the affidavit-in-opposition filed by the WBSEDCL, to harp on certain points.

Upon giving extensive hearing to the petitioner as well as the WBSEDCL on the said occasion, the writ court had come to the finding that, upon perusal of the materials annexed to the pleadings of the parties in the said writ petition, it

was clear that even in the Enquiry Report filed at the behest of the WBSEDCL, the clear aspersions for being responsible for the accident was on the employees of the petitioner, namely, Lal Babu and his people.

Upon certain other findings being rendered, the report was discussed at length and it was also observed that the allegations in the report show that Lal Babu and his men, the employees of the petitioner, not only instigated the victim to undertake the work-in-question but also assured him that the conductor had been isolated, upon which the victim met his demise. Clause 4 of the communication dated August 24, 2018 was also considered by the Court.

Ultimately, it was observed that to subserve the principles of natural justice, before taking “stringent action”, including deduction of the amount of compensation from the petitioner’s dues by the WBSEDCL, such principles were required to be adhered to.

In such context, the writ petition, bearing WPA No. 17816 of 2018, was disposed of without interfering with the communication dated August 24, 2018 impugned therein, seeking initiation of

action against the petitioner on the score of realization of the compensation amount.

Hence, on the basis of the concerned reports, which are germane for the present consideration, the court had clearly observed that it was not interfering with the impugned communication, whereby initiation of action against the petitioner on the score of realization of compensation amount was sought. The only rider thereto was that prior notice and opportunity of hearing was to be adequately given to the petitioner.

It is seen from the records annexed to the present writ petition that not only was a notice of hearing served on the petitioners, the petitioners had the further opportunity of filing written representations, at least two of which are on record.

In the representation of the petitioners dated April 28, 2023 annexed at page 60 of the writ petition, it is seen that the petitioners took a point that the accident took place for doing repairing work by an outsider unauthorizedly and that the victim Ajoy Mondal was the brother of Sanjoy Mondal, who was not an employee of the petitioner but a man of the consumer. It was also

indicated that a statement of Sanjoy Mondal had been taken behind the back of the petitioners and the statement was referred to at the time of hearing of the case.

Sanjoy Mondal was also requested to be made present at the time of hearing. That apart, the statements made in the Enquiry Report were controverted.

In the reasoned order dated May 18, 2023, the respondent authorities clearly recorded that the representative of the petitioners was also present.

Upon giving adequate hearing, it was observed that after going through the report of the Accident Enquiry Committee and subsequent submissions made in the hearing, it was revealed that a fatal electrocution accident took place on January 26, 2013 at about 10.30 a.m. where Ajoy Mondal, aged about 19 years, was a victim. The submissions of the petitioners were recorded to have been heard vividly and thereafter the case of the accused was considered.

The concerned committee had taken into note the relevant factors. The respondent authorities also took into consideration the report of the Committee, which was a part of the

pleading in the previous writ petition and were addressed duly and comprehensively by the petitioner therein.

Hence, at this stage, it cannot be said that the respondent authorities relied on some extraneous documents, which the petitioner did not have the opportunity to go through. In any event, a perusal of the impugned order does not reveal anything to show that there was any illegality or patent irregularity in the decision making process, which is the limited window of a writ court in the absence of palpable irregularities.

I do not find any occasion to interfere with the impugned decision.

Accordingly, WPA No. 13332 of 2023 is dismissed on contest without any order as to costs.

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.)