

19th June,
2023
(AK)
07

W.P.A 13479 of 2023

Sri Pratap Narayan Chandra
Vs.
The State of West Bengal and others

Mr. Indranuj Dutta
Mr. Sk. Motibul Rahaman
...for the petitioner.

Mrs. Gopa Roy
...for the WBSEDCL.

Mr. Rinku Sen
...for the State.

Ms. Rajyashree Chaudhury Mukherjee
...for the respondent nos.6 to 10.

Learned counsel for the petitioner contends that the petitioner is a tenant in respect of the disputed property and the private respondents, in particular respondent no. 10, have disconnected the petitioner's electricity supply.

However, although the petitioner has sought for a new electricity connection at the premises, the same is not being given to the petitioner.

It is also submitted by learned counsel for the petitioner that a suit was filed for eviction of the petitioner at the behest of the private respondents, which subsequently abated but an application for setting aside abatement is now pending.

Learned counsel appearing for the Distribution Licensee submits that no application in appropriate format has been filed as yet by the petitioner before the Licensee for getting a new electricity connection.

Learned counsel appearing for the private respondents opposes the prayer for electricity connection of the petitioner and submits that the petitioner was never a tenant in respect of the premises but initially a licensee. Even after the license expired, the petitioner, by resorting to force and hooliganism, has maintained his possession over the property.

It is submitted that the petitioner is not entitled to assert any Constitutional right since the basis of his possession is illegal.

Learned counsel for the private respondents also seeks to file an affidavit-in-opposition.

However, such prayer of the private respondent is refused since it is well-settled that a person in settled occupation of a property, irrespective of the legality or lawfulness of the said possession, is entitled to get electricity connection in his/her own name as per Section 43 of the Electricity Act, 2003, read in conjunction with Article 21 of the Constitution of India.

As such, although the submissions of the private respondents are recorded, such dispute is not germane for the present purpose.

Accordingly, WPA 13479 of 2023 is disposed of by granting liberty to the petitioner to apply for a new electricity connection in appropriate format before the WBSEDCL.

If such an application is made before the appropriate authorities and in proper format, the WBSEDCL shall give an estimate to the petitioner.

Upon the petitioner complying with all formalities in due process of law, the WBSEDCL shall give a new connection to the petitioner at the disputed premises from the existing meter board position.

It is expected that the WBSEDCL shall give the new connection to the petitioner within a week from the date of compliance of all formalities by the petitioner.

However, it is made clear that in the event any obstruction is raised by the private respondents in doing so, the WBSEDCL personnel will be at liberty to approach respondent no.5, the Officer-in-charge of the Baguiati Police Station for adequate police assistance, which will be given by the said respondent no.5 at the cost of the petitioner by acting on a server copy of this order.

If any padlock or other hindrance is put up, the police personnel will be at liberty to break open the same for the limited purpose of giving access to the WBSEDCL personnel to carry out the order of this court.

However, it is further clarified that nothing in this order and/or the electricity connection, as and when given to the petitioner, shall create any special right or equity in favour of the petitioner and such connection and the observations made in this order shall be entirely without prejudice to the rights and contentions of the petitioner and the private respondents in the pending civil suit and/or in any other litigation which may be instituted between the parties.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)