

15th December,
2023
(AK)
16-18

W.P.A. 14000 of 2023
With
W.P.A. 14018 of 2023
With
W.P.A. 14021 of 2023

Ajoy Bakli
Vs.
West Bengal State Electricity Distribution Company
Limited and others

Mr. Nilanjan Bhattacharjee
Mr. Srijib Chakraborty
Mr. Arpan Guha
Mr. Saikat Dey

...for the petitioner.

Dr. Madhusudan Saha Ray
...for the WBSEDCL.

1. The three writ petitions are taken up together, since the petitioner is the same and there is identity between the allegations made in the three.
2. The petitioner alleges that the WBSEDCL has been installing transformers planfully on properties of the petitioner, situated in different parts of the Kharagpur, which are not even in close vicinity of each other.
3. It is contended that under the Works of Licensees Rules, 2006, unless prior consent is taken from the owner or occupier, permission has to be obtained by the licensee in writing from the District Magistrate or the Commissioner of Police.
4. In the present case, the petitioner never gave any consent and such procedure has not been adopted by the

WBSEDCL. As such, the petitioner seeks intervention of the court.

5. Learned counsel for the WBSEDCL denies the allegation that there is any plan or motive behind different properties of the petitioner being subjected to installation of transformer.

6. The said installation is not of a transformer but a ring main unit, which is part of larger project covering the entire Kharagpur area for converting high tension overhead lines to underground lines.

7. It is also disputed that only the petitioner's lands are being targeted and it is submitted that such units have been installed not only on the petitioner's properties but also in several other properties.

9. Learned counsel for the WBSEDCL contends that the properties on which such units have been installed belong to the PWD and although some of those may be adjacent to the petitioner's property but do not belong to the petitioner.

10. Such allegations are, of course, further controverted by the petitioner.

11. Obviously, there is a dispute as to the ownership of the property where the units are being installed as well as relating to the installation of the units in the first place.

12. However, the said disputes cannot be resolved within the limited confines of a writ petition. As rightly argued by the petitioner, Rule 3 of the Works of Licensees

Rules, 2006 provides that a licensee may carry out works, lay down or place any electric supply line or other works in, through, or against any building, or on, over or under any land wherever or whereunder any electric supply-line or works has not already been lawfully laid down or placed, *with the prior consent of the owner or occupier of any building or land.*

13. Clause (b) of Rule 3(1) provides that in case the owner or occupier of the building or land raises objections in respect of works to be carried out under the said Rule, the licensee shall obtain permission in writing from the District Magistrate or the Commissioner of Police or any other officer authorized by the State Government in this behalf for carrying out the work.

13. In the present case, although the ownership of the petitioner is not admitted by the WBSEDCL, since a dispute has arisen and an objection has been specifically raised by the petitioner by giving representations, it would only be appropriate if the matter is decided before the District Magistrate.

14. Thus, WPA 14000 of 2023, WPA 14018 of 2023 and WPA 14021 of 2023 are disposed of by granting liberty to the petitioner to approach the concerned District Magistrate with the disputes as raised in the present writ petitions within a week from date.

15. If such an approach is made within a week, the District Magistrate shall be given an opportunity to all

concerned including the petitioner and the licensee and decide the dispute between the parties, preferably within January 15, 2024.

16. Till such decision is taken by the District Magistrate, the WBSEDCL shall not further proceed with the work-in-question, since no permission was taken from the District Magistrate or Commissioner of Police in the first place.

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.)