

8th September,
2023
(AK)
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CPAN 892 of 2023
In
WPA 2153 of 2022

Asit Kumar Kundu
Vs.
Mr. Arnab Barua and others

Mr. Abhimanyu Banerjee
...for the petitioner.

Mr. Srijan Nayak
Ms. Rituparna Maitra
...for the alleged contemnor no.1.

Ms. Munmun Tewari
Mr. Sanatan Panja
....for the State.

1. Learned counsel for the petitioner submits two components of the allegation of contempt.
2. First, the shifting done by the WBSEDCL was half-hearted and partial. It is submitted that there are two poles in the vicinity, one of about six meter height and the other nine meter.
3. Although the wires-in-question were increased in height vis-à-vis the nine meter pole, the six meter pole has not been increased in height, thereby the problem remaining as it is.
4. By relying on the photographs annexed to the affidavit-in-reply filed to the contempt application, learned counsel for the petitioner submits that the alleged

contemnors have only done an eye-wash and have not taken care of the safety scenario by increasing the height of the wire sufficiently.

5. It is further alleged that the police authorities never gave any assistance at the relevant juncture, thereby also alleging deliberate contumacious acts on the part of the police.

6. Learned counsel for the police authorities files a report and denies the allegations. Such report be kept on record.

7. Learned counsel for the WBSEDCL also places reliance on two photographs handed over in court today, copies of which are also given to the learned Advocate for the petitioner, indicating that there were two electricity lines which previously hung much below their present position.

8. However, pursuant to the direction of the court, the heights of those have been increased, as depicted in the top picture of the two handed over today.

9. There is a dispute raised by the petitioner regarding whether the safety hazards were duly taken care of by the WBSEDCL.

11. However, as it transpires, the six meter electricity pole existed prior to the petitioner constructing his house to the present level.

12. It cannot be the law that the Distribution Licensee shall carry on increasing the height of its poles at the behest of any and every person who chooses to make constructions adjacent to the pole.

12. In the event the petitioner was of the opinion that safety hazards have arisen, pursuant to subsequent construction made by the petitioner, it was for the petitioner to apply at his own costs for taking further measures.

13. If such application is filed, the WBSEDCL shall take appropriate steps in accordance with law in connection therewith for further shifting, if possible, at the petitioner's cost.

14. However, the pictures show that the WBSEDCL has complied with the order of this court, since the wires-in-question have been shifted sufficiently high vis-à-vis the nine meter pole.

15. Insofar as the police authority is concerned, since the work has already been done by the WBSEDCL, a fact-finding exercise with regard to their alleged inaction would be unnecessary and redundant at the present juncture.

16. Accordingly, CPAN 892 of 2023 is disposed of.

17. However, the petitioner will be at liberty, as indicated above, to apply for carrying out fresh shifting

work at the petitioner's cost, if the petitioner so feels necessary in future.

19. However, since police assistance was not granted, the concerned police station shall return the entire police help costs to the petitioner within a week from date.

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.)