

1st September,
2023
(AK)
38

W.P.A 15731 of 2023

Mukesh Das
Vs.
CESC Limited and another

Mr. Bidyut Kr. Halder
Mr. Indranil Halder
Ms. Neha Singh

...for the petitioner.

Ms. Sreemoyee Mitra

...for the CESC Limited.

1. Learned counsel for the petitioner submits that the petitioner applied for new electricity connection which was refused on the ground that the petitioner is already enjoying the benefit of an existing supply. It is submitted that the said allegation is not correct, since there is no other electricity meter at the premises.
2. Learned counsel appearing for the CESC Limited submits, on instruction, that the building where the electricity connection has been sought was declared to be an illegal construction by the concerned authorities. Police case is also pending with regard to the said building on such score.
3. As such, the CESC Limited did not give such connection to the petitioner.

4. It is further submitted that the reasons cited in the refusal which has been annexed to the writ petition was a *bona fide* inadvertence on the part of the CESC Limited.

5. The sole ground on which electricity connection is refused by the CESC Limited is that the building has been declared to be an illegal one.

6. However, irrespective of the illegality of the same, until and unless a demolition order is specifically passed, the petitioner's settled occupation cannot be disputed.

7. Since it is well-settled that a person in such occupation is entitled to electricity, irrespective of the lawfulness of the possession, WPA 15731 of 2023 is disposed of by directing the CESC Limited to give electricity connection to the petitioner subject to the petitioner complying with all formalities in that regard within a fortnight from the date of compliance of formalities by the petitioner and subject to the technical feasibility of doing so.

8. It is, however, made clear that the electricity connection, as and when given, shall not create any special equity in favour of the petitioner and/or create any right which the petitioner does not have in law and shall be subject to any order, including demolition order, which may be passed with regard to the premises where the connection is given, passed by a competent court/forum.

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.)