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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 16256 of 2023

Sri Sudarsan Garai

Vs.

West Bengal State Level Ground Water
Resources Development Authority & Ors.

Ms. Chaitali Bhattacharya,

Mr. Sayan Kanjilal

...for the petitioner

Mr. Pantu Deb Roy,

Mr. Subrata Guha Biswas

...for the State

Ms. Suvasree Ghose

...for the WBSEDCL

Learned counsel appearing for the petitioner submits that, on a previous occasion, the petitioner had to approach this Court with a writ petition complaining that the private respondent has installed a submersible pump within the prohibited distance from the petitioner's pump.

An enquiry was directed in that regard by this court, on consideration of the prior writ petition of the petitioner, by taking the same to be a representation.

Subsequently, however, the respondent/WBSEDCL intimated the petitioner, allegedly as a backlash, that it was the petitioner who had encroached within the prohibited distance from the private respondent's pump and had installed the petitioner's submersible pump within the said zone.

Subsequently, a "Reasoned Order" was passed by the WBSEDCL, indicating that the distance between the two submersible pumps of the petitioner and the private respondent falls within the prohibited distance. As such, it is submitted that since the private respondent's application for electricity supply was later than that of the petitioner, the private respondent's connection ought to have been disconnected.

Despite service, none appears for the private respondent. As such, the matter is taken up for hearing in the absence of the private respondent.

Learned counsel for the WBSEDCL submits that, in consonance with the previous direction of this court, a reasoned order has been passed by the WBSEDCL in presence of the petitioner. As such, it is contended that the same cannot be faulted.

However, upon query, it transpires that the application for electricity connection of the private respondents was subsequent to that of the petitioner.

Since the reasoned order authored by the WBSEDCL itself discloses that the distance between the petitioner's and the private respondent's submersible pumps are within the prohibited zone, it was for the WBSEDCL to reject the subsequent application of the private respondent, in view of the violation of the relevant Circulars issued by the appropriate authorities, whereby the said connection could not have been given to a submersible pump, which has been installed within the prohibited distance from another such pump.

Irrespective of the issue as to who installed his submersible pump first, the relevant consideration vis-à-vis the WBSEDCL is only who applied first for the electricity connection.

In any event, if the private respondent and/or the petitioner have any grievance regarding installation of the submersible pump within the prohibited zone, it is open to the said parties to

approach the Ground Water Resources Authorities and/or other competent authorities with such grievance. However, insofar as the electricity connection being given to the private respondent is concerned, in view of the private respondent's electricity connection within the prohibited distance being subsequent, the same was given by the WBSEDCL *de hors* the law.

Accordingly, W.P.A. No. 16256 of 2023 is allowed, thereby directing the WBSEDCL to disconnect the electricity supply given to the private respondent within a fortnight from date.

However, nothing in this order shall preclude the private respondent from approaching the concerned District Magistrate with the dispute that the private respondent was entitled, otherwise, to get such electricity connection, pleading any exemption from the concerned Circulars.

If so approached, the District Magistrate shall decide such issue in accordance with law. However, insofar as the observations made herein are concerned, the same attain finality by virtue of this order, subject, of course, to the outcome of any

appeal, if preferred by the private respondent against the instant order.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)