

D/L. 14.
July 31, 2023.
MNS.

WPA No. 17454 of 2023

Pratima Das
Vs.
State of West Bengal and others

Mr. Anindya Ghosh,
Mr. Sekhar Mukherjee

... for the petitioner.

Mr. Tanoy Chakraborty,
Ms. Mrinalini Majumder

...for the State.

Mr. Rabindra Nath Pal,
Mr. Kaustava Ratan Chatterjee

...for the private respondent no. 4.

Affidavit-of-service filed in Court be kept on
record.

Learned counsel for the petitioner
contends that the petitioner has already applied
for electricity connection and has complied with
formalities, but no electricity connection has been
given by the West Bengal State Electricity
Distribution Company Limited (WBSEDCL).

Despite service, none appears for the
WBSEDCL, although the petitioner, the State and
the private respondent are represented through
counsel.

The objection of the private respondent is that the private respondent had applied for an order under Section 144 of the Code of Criminal Procedure and a police report was filed, which indicates that the electricity connection sought by the petitioner is proposed to be taken over the property of the private respondent.

That apart, in a subsequent proceeding, also under Section 144 of the Code of Criminal Procedure, a report has been sought from the Block Land and Land Reforms Officer, which is still awaited.

Hence, it is submitted that the possession of the petitioner on the property is disputed. The private respondent also submits that the private respondent has given an objection to the WBSEDCL in respect of the connection being given to the petitioner.

Upon hearing learned counsel for the appearing parties, it is evident that the private respondent has been filing one application under Section 144 of the Code of Criminal Procedure after the other, to obstruct the petitioner from taking electricity supply.

However, the private respondent has also given a written objection to the WBSEDCL in

respect of giving electricity connection to the petitioner.

Although the concerned Magistrate, in a proceeding under Section 144 of the Code of Criminal Procedure, does not have jurisdiction to decide the issues in respect of electricity connection being given to a person, the petitioner has to establish that the petitioner is in settled possession of the property prior to a connection being given to him.

Since a specific objection has also been raised by the private respondent in the instant case, the appropriate authority to decide which, under the relevant provisions of law is the concerned District Magistrate.

Accordingly, WPA No. 17454 of 2023 is disposed of by granting liberty to the petitioner to approach the concerned District Magistrate having territorial jurisdiction in the area for redressal of the grievance as raised in the present writ petition.

If so approached, the District Magistrate shall decide all issues in accordance with law, upon giving opportunity of hearing to the WBSEDCL as well as the private respondent and all concerned, in accordance with law, as

expeditiously as possible, positively within six weeks from the date of such application being made to the District Magistrate.

It is made clear that the rival contentions of the petitioner and the private respondent against each other have not been entered into by this Court.

It is further clarified that the matter of giving electricity connection to the petitioner shall be subject only to the outcome of the adjudication before the District Magistrate.

If the order of the District Magistrate turns out to be in favour of the petitioner, the WBSEDCL shall, subject to compliance of formalities by the petitioner, give such connection to the petitioner at the earliest, irrespective and independent of the pendency of any proceeding under Section 144 of the Code of Criminal Procedure.

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 with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)