

D/L. 8.
August 22, 2023.
MNS.

WPA No. 18423 of 2022

Forida Bibi
Vs.
The West Bengal State Electricity
Distribution Company Limited (WBSEDCL)
and others

Mr. Asim Kumar Niyogi

... for the petitioner.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra

...for the WBSEDCL.

The petitioner claims to be a lady of meager financial condition and is not in a position to pay for shifting of high-tension electrical line above her property. However, it is submitted that the West Bengal State Electricity Distribution Company Limited (WBSEDCL) has estimated huge amounts as shifting charges.

It is argued that the petitioner is suffering immensely due to the hazard of high-tension line running over her property. Accordingly, it is prayed that the said high-tension line be shifted at reasonable charges or at the costs of the WBSEDCL.

Learned counsel for the petitioner seeks to rely on Section 164 of the Electricity Act, 2003 (2003 Act) as well as the relevant provisions of the Indian Telegraph Act, 1885.

Learned counsel appearing for the WBSEDCL submits that there have been previous rounds of litigation. Ultimately, the WBSEDCL was willing to shift the high-tension line and estimated the costs therefor. The petitioner challenged such estimate before the concerned Grievance Redressal Officer (GRO). Being dissatisfied with the said order, a challenge was also made before the Ombudsman.

As such, the question of the charges for shifting cannot be reopened.

Upon considering the submissions of the parties, it is clear that the petitioner had come into the land by purchase after the high-tension line was installed. The petitioner acquired the land knowing fully about the existence of the line. Hence, there could not have been any question of the petitioner objecting when the high-tension line was taken initially over the land. Although the petitioner is not justified in submitting that Section 164 of the 2003 Act is applicable, for the simple reason that the WBSEDCL is not operating as a

transmission company, but as a distribution company, and the Works of Licensees Rules, 2006 (2006 Rules) is the relevant provision, even the provisions of the relevant Rule, that is, Rule 3 of the 2006 Rules, does not help the petitioner much in the present case.

The chapter of the petitioner seeking a shifting of the high-tension line is now closed, since the WBSEDCL is agreeable, on principle, to so shift. The dispute, now, is relating to the costs of such shifting, which as per the provisions of Rule 3 of 2006 Rules, has to be borne by the petitioner, since the petitioner has sought such shifting much subsequent to the installation of the high-tension line.

That apart, the high-tension line caters to public utility in the area as a whole and the interest of an individual has to give way to public interest.

Be that as it may, although the WBSEDCL is agreeable to shift the high-tension line at the costs of the petitioner, the petitioner is not in a position to bear the costs.

Despite expressing full sympathy with the petitioner due to her financial condition, the court does not have the jurisdiction to arbitrarily alter

the estimate, which has been arrived at by the WBSEDCL and affirmed up to the Ombudsman, which is the competent authority in law to do so.

In any event, the WBSEDCL, as the Distribution Company, is duty-bound in law to ensure that the high-tension line is always kept at a sufficient height, as sanctioned by law, over the property of the petitioner and all other properties over which it is running.

Accordingly, WPA 18423 of 2022 is disposed of by granting liberty to the petitioner, if possible for the petitioner, to bear the expenses for shifting the high-tension line.

If such charges are paid, as assessed, the WBSEDCL shall shift the high-tension line from over the property of the petitioner.

In any event, the WBSEDCL shall ensure that due safety measures are taken at all times to ensure that there is no electrical or fire hazards from the high-tension line running over the petitioner's property, in due deference to legal provisions in that regard.

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.)