

D/L. 21.
November 20, 2023.
MNS.

WPA No. 24614 of 2023

Hafija Begam
Vs.
The Chairman, West Bengal
State Electricity Distribution Company
Limited and others

Mr. Amitabha Ghosh

... for the petitioner.

Mr. Sourav Chaudhuri

...for the WBSEDCL.

Mr. Suman Chakraborty,
Mr. Subhasis Dutta

...for the private respondent no. 5.

1. Affidavit-of-service filed in Court today be kept on record.
2. At the outset, learned counsel for the private respondent no. 5 challenges the maintainability of the writ petition on the ground of *locus standi* of the petitioner.
3. Learned counsel for the petitioner contends that due to objection by the private respondent no. 5, electricity connection cannot be given by the West Bengal State Electricity Distribution Company Limited (WBSEDCL) to the petitioner at the premises.

4. To show *prima facie* possession, the petitioner has annexed certain tax receipts and other documents to the writ petition.
5. Learned counsel appearing for the private respondent no. 5 controverts the allegation of the petitioner and submits that the petitioner is a mere licensee and has no *locus standi* or legal right to be in occupation of the property-in-question.
6. It is further submitted that the property is a '*khas*' property and belongs to the Government and the private respondent has been paying taxes, receipts of which are in custody of the private respondent no. 5.
7. Learned counsel for the private respondent no. 5 seeks some time to furnish such documents in court.
8. Learned counsel for the WBSEDCL submits that, in principle, WBSEDCL does not have any objection to give electricity connection to the petitioner, but due to the obstruction raised by the private respondent and a proceeding initiated by the private respondent no. 5 under Section 144 of the Code of Criminal Procedure, the electricity connection cannot be given.

9. Upon hearing learned counsel for the parties, it is evident that although the private respondent is disputing the legality of the possession of the petitioner, the petitioner has furnished sufficient *prima facie* proof of her occupation of the property, irrespective of the legality of the same.
10. It is settled position of law that an occupier, irrespective of the lawfulness of such occupation, is entitled to get electricity connection under Section 43 of the Electricity Act, 2003 (2003 Act).
11. Inasmuch as the dispute between the petitioner and the private respondent regarding legality of their respective possessions is concerned, the same is not the subject matter of the writ petition within the limited conspectus of the present electricity dispute and it will be open to both the parties to urge such question before any competent civil forum, if need be.
12. However, in view of the above observations, the right of the petitioner to get electricity is established, which will however not confer any special right or equity in favour of the petitioner.

13. Accordingly, WPA No. 24614 of 2023 is allowed, thereby directing the WBSEDCL to give electricity connection to the petitioner at the earliest, positively within a fortnight from the date of compliance of all formalities in that regard by the petitioner.

14. In the event any obstruction is raised by the private respondent no.5, it will be open to the personnel of the WBSEDCL to approach the respondent no. 4, that is, the Inspector-in-Charge, Chanditala Police Station, for adequate police assistance in that regard at the cost of the petitioner.

15. If necessary, the respondent no. 4 shall be entitled to remove padlock or any hindrance for giving such connection.

16. However, it is further clarified that nothing in this order shall create any special right or equity in favour of the petitioner, which the petitioner otherwise does not have.

17. However, in view of the discussions made hereinbefore, the point of maintainability is not being entertained.

18. There will be no order as to costs.

19. 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.)