

AD-09
Ct No.09
05.01.2023
TN

WPA No. 28260 of 2022

Sakti Pada Maity
Vs.
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Sajal Kr. Ghosh,
Mrs. Dipa Bhattacharya

.... for the petitioner

Mr. Sankar Banerjee

.... for the WBSEDCL

Affidavit-of-service filed in court today be kept on record. None appears for the private respondent despite service.

The grievance of the petitioner is that the petitioner has been consistently enjoying electricity connection in respect of his submersible pump. Previous to the petitioner, the petitioner's father had been enjoying such connection in the property, which was gifted by way of a deed of gift by the petitioner's father to the petitioner.

Such uninterrupted supply, however, was disrupted due to the electricity meter of the petitioner being stolen. Upon the petitioner applying for a new electricity meter, the West Bengal State Electricity Distribution Company Limited (WBSEDCL), it is

submitted, was not giving such electricity meter/replacing it.

Accordingly, a writ petition bearing W.P. 7662(W) of 2017 was moved by the petitioner in which, vide order dated March 24, 2017, a coordinate Bench of this court had directed that since the meter is a property of the Distribution Company, it was open to them to take steps if the same had been stolen. It was further recorded by the learned Single Judge that it is the duty of the Distribution Company to provide another meter so that the petitioner may continue with the uninterrupted supply of electricity for the purpose of cultivation. Such meter was directed to be installed within two weeks from the date of the order provided the charges for the same were deposited by the petitioner.

It is contended that subsequently such charges were deposited and the meter was installed duly.

However, in the meantime, a temporary electricity connection was given to the private respondent for operating a submersible pump situated within thirty meters of the petitioner's pump, which is prohibited in law.

As such, the present writ petition has been filed seeking a restraint order on the WBSEDCL from giving a permanent electricity connection to the private

respondent in view of the distance between the two submersible pumps being within the prohibited limit.

Learned counsel for the WBSEDCL agrees to the argument that a meter was installed in the petitioner's name upon the previous meter having been stolen.

However, it is submitted that when the temporary electricity connection to the submersible pump of the private respondent was given, the petitioner was not enjoying any electricity supply. As such, it cannot be said that the temporary connection was given unlawfully to the private respondent.

Upon hearing learned counsel for the parties, it transpires that there was no patent illegality in the action of the WBSEDCL since there was a scope of doubt as the petitioner was not enjoying physically electricity supply at the relevant juncture, when the temporary connection was given to the private respondent. However, it cannot be gainsaid that even at the said juncture, the petitioner had been enjoying electricity connection as established *prima facie* by the order of a coordinate Bench dated March 24, 2017 passed in W.P. 7662(W) of 2017. Since the electricity supply had not been disconnected to the petitioner from the end of the Distribution Licensee, technically it cannot be said that the petitioner had not been enjoying electricity at the relevant juncture.

The temporary phase, during which the meter of the petitioner had been stolen, thus, cannot be construed to be a period when the petitioner was not enjoying the electricity supply from the end of the Distribution Licensee, that is, the WBSEDCL.

Be that as it may, since the temporary connection given to the private respondent appears at best to be 'irregular' and not 'illegal' as such, there is no scope of directing disconnection of the same. However, the petitioner is justified in drawing the attention of the WBSEDCL by way of a representation to the effect that the said temporary connection of the private respondent may not be rendered permanent.

Hence, in the light of the above developments, WPA No. 28260 of 2022 is disposed of by directing the WBSEDCL to consider the representation of the petitioner and, prior to giving any permanent connection to the private respondent at the present position of the temporary connection of such respondent, the WBSEDCL shall consider the representation and the allegations made by the writ petitioner.

The WBSEDCL shall also cause an inspection before giving a permanent connection to the private respondent, if applied for duly, as regards whether the mandatory distance between the submersible pump of

the private respondent and the other nearest submersible pump(s) has been maintained.

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.)