

D/L. 16.
February 27, 2024.
MNS.

WPA No. 559 of 2024

Shibsankar Garai
Vs.
West Bengal State Level Ground Water
Resources Development Authority and
others

Mr. Dhiman Ray,
Mr. Dip Chanda

... for the petitioner.

Mr. Pantu Deb Roy,
Mr. Subrata Guha Biswas

...for the State.

Ms. Chaitali Bhattacharya,
Mr. Sayan Kanjilal

...for the private respondent.

1. Affidavit-of-service filed in Court today be kept on record.
2. Liberty is granted to the learned Advocate for the private respondent to file Vakalatnama in the department during the course of the day.
3. The present writ petition has been preferred against the disconnection of the writ petitioner's electricity supply pursuant to an order dated July 18, 2023 of this Court in WPA No. 16256 of 2023.
4. Learned counsel for the writ petitioner argues that this Court, while passing the said order,

relied on a “Reasoned Order” passed by the West Bengal State Electricity Distribution Company Limited. However, the present writ petitioner, who was the private respondent therein, was not represented on the date of hearing and the purported reasoned order was not construed in proper perspective.

5. A copy of the said ‘reasoned order’ has been annexed at page 22 of the writ petition. By placing reliance on the second part of paragraph no. 5 of the said order, it is pointed out by the petitioner that an inspection was carried out by the S.M., Natunhat CCC along with his team at the premises of the present private respondent, namely, Sudarshan Garai and it was found that he had shifted his submersible pump adjacent to the premises of Kripa Sindhu Garai (the predecessor-in-interest of the petitioner) which was 150 meter (approx.) away from the existing position where originally the STW connection of Sudarsan Garai was effected, without giving any prior intimation to the office. It is, thus, sought to be highlighted that the reason for the necessary distance not being kept between the submersible pumps of the

petitioner and the private respondent was such shifting by the private respondent, for which the petitioner was in no way responsible. It is thus sought to be indicated that before shifting, adequate statutory distance was maintained between the two submersible pumps.

6. The premise of the order dated July 18, 2023, it is argued, was that since the present writ petitioner took his connection subsequent to the private respondent, the liability of not leaving the appropriate distance fell on the writ petitioner, which is incorrect in view of the above observations made in the reasoned order.
7. Learned counsel appearing for the private respondent herein, who was the writ petitioner in WPA 16256 of 2023, points out to paragraph no. 3 of the reasoned order, which says that the STW service connection to the premises of the present writ petitioner's predecessor-in-interest was effected on September 21, 2021 after completion of necessary formalities at a distance of 155 meter (approx.) away from the existing STW

service connection of Sudarshan Garai, the present private respondent.

8. Hence, it is argued that the basic premise of the order of this Court dated July 18, 2023 remains valid, inasmuch as even when the connection was first given to the present writ petitioner, the distance between the petitioner's submersible pump and that of the private respondent was 155 meter (approx.) which was within the prohibited limit.
9. Hence, it is argued that there is no scope of interference in the present writ petition.
10. Learned counsel for the writ petitioner, in reply, seeks to place reliance on a hand sketch map, which is not permitted, since it is not a part of the writ petition nor was it a part of the previous writ petition.
11. The proper remedy before the present petitioner would have been to file a review application of the order dated July 18, 2023, since the disconnection, which is disputed in the present matter, was a direct outcome of the said order and the respondent authorities cannot be faulted for having complied with the order of this Court.

12. However, keeping in view the fact that both the writ petitioner and the private respondent are cultivators and may not be too sound financially, instead of relegating them to further expenses and delay in litigation, the present writ petition is treated to be a composite one, praying for review of the previous order as well.

13. It may be mentioned here that it was clearly recorded in the order dated July 18, 2023 that, despite service, none appeared for the private respondent.

14. The private respondent therein is the writ petitioner herein and there is no reason to disbelieve such observation of court at this stage.

15. Hence, let us proceed on the premise that the private respondent therein, who is the present writ petitioner, despite having service, did not appear.

16. Be that as it may, even so, since a review is maintainable even at the instance of a party who was represented at the relevant juncture on the grounds of error apparent on the face of record or discovery of new materials, the present writ petition is taken to be one for

review on the ground of error apparent on the face of the record.

17. For such consideration, it is mandatory to look into the 'reasoned order', which is the crux of the dispute between the parties.

18. Paragraph no. 5 of the same records that the present private respondent Sudarsan Garai had shifted, without permission, the electricity connection to his submersible pump adjacent to the premises of the present writ petitioner's father, which is 150 meter (approx.) away from the previous connection of the STW connection of Sudarsan Garai.

19. Hence, by simple arithmetic, the submersible pump, even before such shifting, was about 150 meter (approx.) away from the present location of the present writ petitioner's submersible pump, which is still within the prohibited limits.

20. Thus, the shifting of 150 meter (approx.) by the present private respondent does not have any relevant bearing, since even if such shifting was done, the same could not have been material since, even before such shifting, the distance between the two

submersible pumps would be nearabout 150 meters.

21. More clinching is paragraph no. 3 of the 'reasoned order'. The said paragraph records that even at the inception, when the predecessor-in-interest of the present writ petitioner took the electricity connection for operating his submersible pump for the first time, the said pump was situated at the distance of 155 meter (approx.) away from the existing STW connection of the Sudarsan Garai.

22. Thus, as rightly argued by the present private respondent, the cardinal premise of the order dated July 18, 2023 remains, as reflected from the said order, that when the submersible pump of the present petitioner was installed and electricity connection taken even at that juncture it was situated at a distance of 155 meters, which is within the prohibited distance, irrespective of the subsequent shifting of submersible pump by the present private respondent.

23. The premise of the order dated July 18, 2023 was clearly indicated to be that since the present writ petitioner (private respondent

therein) had taken electricity connection subsequent to the private respondent within the prohibited distance from the present private respondent's submersible pump, the present writ petitioner's connection ought to be disconnected.

24. Thus, I do not find any reason for recalling or reviewing the order dated July 18, 2023.

25. Since the respondent authorities have acted in terms of the said order, no fault can be found on the part of the WBSedCL in disconnecting the electricity connection of the petitioner (private respondent therein) in compliance of the direction of this court dated July 18, 2023.

26. In such view of the matter, WPA No. 559 of 2024 is dismissed on contest.

27. There will be no order as to costs.

28. 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.)