

27th February,
2024
(AK)
18

W.P.A 1330 of 2024

Genius Kids and another
Vs.
The State of West Bengal and others

Ms. Reshmi Ghosh
Ms. Parna mukherjee
...for the petitioner.

Mr. Pankaj Halder
Mr. Sanatan Panja
...for the State.

Dr. Madhusudan Saha Ray
...for the CESC Limited.

Mr. S. Chatterjee
Mr. A. Ghosh
...for the private respondent.

1. The petitioners claim to be tenants in respect of the premises-in-question.
2. It is submitted by learned counsel for the petitioners that the petitioner no.1 is a pre-school being run from the first floor of the premises.
3. Initially, by agreement with the private respondent no.5/landlord, the petitioners were enjoying electricity connection for running the school.
4. However, subsequently the same being disconnected by the respondent no.5 and the petitioners are running the school without electricity for about six months.

5. It is argued that the petitioners had to take out an application under Section 144 of the Criminal Procedure Code, due to inaction of the police in respect of which the petitioners were constrained to take out a different writ petition which is now pending.
6. It is argued that upon the petitioner having written to the CESC authorities regarding the shifting of the electricity meter from the portion of the premises occupied by the private respondent to that of the petitioners, the CESC Limited has not acceded to the same, prompting the filing of the present writ petition.
7. Learned counsel for the CESC Limited submits that the request of the petitioners for shifting cannot be acceded to, since the petitioner is not the consumer in respect of the said meter.
8. As such, the petitioners' request was not permitted by the CESC Limited.
9. Learned counsel for the private respondent no.5 argues that the petitioners are not lessees but licensees under the private respondent no.5 and there was a profit sharing agreement between the two in respect of the school, which is being violated by the petitioners.
10. Learned counsel for the private respondent further submits that the petitioner no.1 could not have

operated the school for six months without electricity, which is an absurd proposition.

11. Moreover, the private respondent not only denies having disconnected the electricity supply to the school but categorically submits that till date the private respondent has been continuing to supply electricity to the petitioners, since the private respondent also has a share in the business.
12. It transpires from the submissions of the parties and the materials annexed to the writ petition that the only fact which cannot be doubted here is that the relationship between the petitioners and the private respondent no.5 is at present acrimonious.
13. Whatever may be the reason of the same, the said fact cannot be denied.
14. Since the petitioners are admittedly in occupation of a portion of the property, they are entitled to independent electricity connection in their own name within the contemplation of Section 43 of the Electricity Act, 2003.
15. However, the request of the petitioners for the CESC Limited to shift the electricity connection of the private respondent to the premises of the petitioners was rightly not granted by the CESC Limited, since the petitioners are not the consumers with regard to the concerned meter and hence do not have a right to seek such shifting.

16. If the petitioners are interested to get a new and independent electricity connection in their name, they would definitely be at liberty to apply for the same, which would not be construed as an attempt to split the load, in view of the acrimonious relationship between the petitioners and the private respondent, more so due to the pending litigations between the two.
17. In such view of the matter, WPA 1330 of 2024 is disposed of without interfering with the decision of the CESC Limited not to accede to the request of the petitioners for shifting of the private respondent's meter but granting the petitioners liberty to apply for fresh electricity connection in their own name from the CESC Limited.
18. If such an application is made, the CESC Limited shall consider the feasibility of the same and whether such connection can be given by way of a loop meter or otherwise from the existing service connection at the premises.
19. Upon such exercise being concluded by the CESC Limited within a week from the date of the application of the petitioners, if so made, the CESC Limited shall issue an Offer Letter to the petitioners.
20. Upon compliance of all formalities by the petitioners in that regard, a new connection shall

be given to the petitioners, from a loop meter or otherwise from the existing service connection at the premises.

21. It is made clear that in the event the private parties herein have any axe to grind against each other on their civil rights and/or on a criminal footing, it would be open to both the parties to approach the appropriate court/forum for doing so without being influenced in any manner by any of the observations made herein or by the fact that electricity connection is being given to the petitioners.

22. There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)