

D/L. 19.
March 5, 2024.
MNS.

WPA No. 2202 of 2024

M/s Electromoto Private Limited and
others

Vs.

The State of West Bengal and others

Mr. Amritam Mandal,
Ms. Swati Agarwal,
Ms. A. Nayak

... for the petitioners.

Mr. Rudrajit Sarkar

...for the State.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra

...for the WBSEDCL.

Mr. Supriya Ranjan Ghosh

...for the respondent nos. 6 and 7.

1. Affidavit-of-service filed in Court today be kept on record.
2. A copy of the plaint handed over in Court by learned counsel for the private respondents be kept on record as well.
3. Learned counsel for the petitioners submits that the petitioners are licensees under the respondent nos. 6 and 7. However, the electricity supply at the premises stands in the name of an enterprise of respondent no. 7, the husband of the respondent no. 6. One of the terms of the licence was that the petitioners

would be enjoying electricity from such connection. However, it is alleged that the electricity was disconnected, for which the petitioners had to take steps, including lodging a formal complaint before the police authorities.

4. As such, the petitioners argue that on the strength of Section 43 of the Electricity Act, 2003 (2003 Act), the petitioners being in settled possession of the property, are entitled to electricity; but having applied for the same, the West Bengal State Electricity Distribution Company Limited (WBSEDCL) is taking a point that the petitioners have to produce way-leave permission from the private respondents.
5. It is argued that the insistence on production of way-leave permission is *de hors* the law.
6. Learned counsel for the WBSEDCL submits that the meter stands in the name of an enterprise of respondent no.7 and as such, the petitioners can take connection from the said meter. However, insofar as an independent connection is concerned, the WBSEDCL does not have any objection on principle to give such connection subject, of course, to compliance of formalities by the petitioners.

7. Learned counsel for the private respondents argues that the petitioners have made incorrect allegations against the private respondents. In fact, the petitioners are continuing to enjoy electricity supply from the electricity meter of the respondent no. 7. As such, it is argued that there is no cause of action for the present writ petition.
8. That apart, learned counsel for the private respondents places reliance on the fact that a suit is pending on the self-same cause of action at the behest of the petitioners.
9. Hence, the prayer in the writ petition is opposed by the private respondents.
10. Learned counsel for the petitioners, while reiterating his submissions in reply, points out that the suit previously filed by the petitioners has since been withdrawn.
11. In the facts of the present case, what cannot be doubted is that the petitioners are admittedly in settled possession of the property insofar as the right to get electricity under Section 43 of the 2003 Act is concerned.
12. With regard to the continuous enjoyment of electricity by the petitioners from the connection of the private respondents, the assertions by the private respondents is

dubious since it is not credible that the petitioners would run from pillar to post, taking out complaints before the police authorities and filing a writ petition and a suit, for a cause of action which is illusory, despite enjoying electricity from the private respondents.

13. In any event, the fact that the petitioners have been filing complaints against the private respondents and instituting a suit and filing a writ petition shows that the relationship between the petitioners and the private respondents has soured, which entitles the petitioners in their capacity as occupants of the property to get independent electricity connection in their names.

14. Insofar as the suit is concerned, the petitioners contend that the same has been withdrawn.

15. Even if the suit were to be pending, the same could not have been a deterrent for assertion of the right of the petitioners against a public authority, that is, the WBSEDCL, in a writ petition in view of the statutory right under Section 43 of the 2003 Act.

16. That apart, the Constitutional right to life guaranteed under Article 21 of the Constitution of India, it has been held time and again by several courts, includes the

component of right to have a life of dignity which includes electricity connection, being a basic amenity, being given to a person.

17. That apart, the primary relief in the suit, which has since been withdrawn, was a decree of declaration that the plaintiff is an occupier of the property and that the agreement dated September 28, 2022 is valid, operative and binding on both parties. The declaration regarding electricity connection entitlement was only an ancillary relief and could not debar the petitioners from seeking electricity connection in the writ court.

18. In any event, in view of the above observations, insistence of the WBSEDCL for production of way-leave certificate from the licensors is redundant and contrary to Section 43 of the 2003 Act, particularly in the facts of the case which show the strained relationship between the petitioners and the private respondents.

19. Accordingly, WPA No. 2202 of 2024 is allowed on contest, thereby directing the WBSEDCL to give metered electricity connection to the petitioners from the existing meter board position at the concerned premises within a fortnight from the

petitioners' complying with all formalities in that regard.

20. If any obstruction is raised in any manner by the private respondents and/or their men and agents in the WBSEDCL personnel giving such connection, it will be open to the WBSEDCL personnel to approach the local police authorities. If so approached, the Inspector-in-Charge/Officer-in-Charge, as applicable, of the location Police Station shall give necessary assistance to the WBSEDCL personnel at the cost of the petitioners to ensure that such connection is given to the petitioners.

21. If need be, the police personnel will be at liberty to remove any padlock or any other hindrance, if put up in the way of the connection being given to the petitioners.

22. The parties shall act on the server copy of this order for the purpose of compliance, without unnecessarily insisting upon prior production of certified copy thereof.

23. There will be no order as to costs.

24. 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.)