

01.07.2024
Item No. 47
Ct. No. 01
AN

MAT 1040 of 2024
with
IA No. CAN 1 of 2024; CAN 2 of 2024

Sitaram Mondal
Vs.
West Bengal State Electricity Distribution
Company Limited & Ors.

Mr. Sitaram Mondal
... For the Appellant (in-person)

Dr. Madhusudan Saha Roy
... For the WBSEDCL

1. This appeal has been preferred by the writ petitioner challenging the order passed by the learned Single Judge dismissing the writ petition filed by the appellant and also dismissing the review application. There appears to be a delay in filing the appeal. However, considering the fact that the appellant is appearing-in-person and that the advocate engaged by him is no more, we exercise discretion and condone the delay of 63 days in filing the appeal. Hence, CAN 1 of 2024 is allowed and disposed of.

2. We have heard the appellant appearing in person and Dr. Madhusudan Saha Roy, learned

counsel appearing for the WBSEDCL (a Government of West Bengal Enterprises).

3. The short issue involved in this appeal is whether the appellant can be compelled to pay a sum of Rs. 22500/- being the charges to be incurred by the respondent Electricity Distribution Company for shifting of an electric pole. It is not in dispute that the respondent Electricity Distribution Company has examined the feasibility of the request of shifting and found the same to be feasible and precisely for this reason, agreed to do the shifting and demanded a sum of Rs. 22500/-.

4. The fact remains that the electric pole is the second electric pole erected in front of the appellant's property. So far as the first pole is concerned, the appellant and his mother had not objected to the same, but however, when the second pole was sought to be erected in front of the residential plot, his mother raised objection in the year 2012 itself. Apart from that the appellant had also submitted in a letter of objection on 22.11.2012, requesting that the additional electric pole should be removed from the front or otherwise and requested for a reply by registered post or e-mail from the respondent Electricity Distribution Company. This was followed by another representation dated

11.02.2013. The Electricity Distribution Company did not reply to both the representations. The appellant thereafter engaged the service of an advocate and sent a notice on 06.01.2014 requesting for removal of the said electric pole. An Assistant Engineer sent a reply to the advocate on 09.03.2014 stating that the site was inspected on 11.03.2014 and it was confirmed that there was one new PCC Pole installed by the side of the road of the local panchayat and not on the land of the appellant for supply of electricity to the neighbour and safety clearance was also found to be in accordance with rules and there is no provision to shift the PCC pole on the ground right of their property. On receipt of the same, the appellant sent another representation on 07.07.2023 pointing out that at the very first instance his aged mother requested not to erect a second pole, however, the Officers of the Electricity Distribution Company did not pay any heed to such request of the appellant and his mother. After that he made several representations which were not considered. Furthermore, the appellant clearly stated that it was never his case that the pole was erected on his land as his case was that the poles have been placed in the Panchayat/government road in front of his 27 feet wide plot/land and it is not possible for facilitating an entry of motor vehicle etc.

5. The appellant also pointed out that since the Electricity Distribution Company did not take any action, he has contacted the Hon'ble Chief Minister's Helpline to solve the problem and came to know that the message has been forwarded to Burdwan Zonal Office of the WBSEDCL for immediate action. Further, the appellant suggested that the eastern pole can be shifted and the problem can be solved. The appellant requested for a reply within 14 days. The representation was forwarded by the Assistant Manager of the WBSEDCL to the Station Manager by the memo dated 11.08.2023. In response to the same, the appellant received their reply by e-mail on 14.06.2023 from which it is seen that the Electricity Distribution Company was agreeable to shift the pole and directed the cost of shifting of the pole to be borne by the appellant as per the norms. The appellant requested that the cost may not be demanded from him and subsequently filed the writ petition. It is the contention of Mr. Saha Ray that the appellant has agreed to the proposal of shifting on 26.02.2024, the said acknowledgment is recorded in the plan prepared by the Junior Engineer dated 26.02.2024, however, there is nothing specifically mentioned about the cost of shifting which is to be borne by the appellant.

6. Considering the peculiar facts and circumstances of the case and, more particularly, that ever since 2012, the appellant having been objecting to the erection of second pole for providing electricity to the neighbour, the Department did not take any action and it appears that only after the matter was referred to the Hon'ble Chief Minister's Helpline, the authorities took action.

7. Therefore, in our considered view, the case on hand can be treated as a very peculiar and exceptional case where the shifting of the pole should be done by the respondent Electricity Distribution Company without demanding any amount for shifting charges from the appellant.

8. Accordingly, the appeal is **allowed**. The order passed in the writ petition and the review petition is set aside and the demand of Rs. 22500/- from the appellant is deleted and set aside and the respondent Electricity Distribution Company is directed to shift the concerned electric pole within a period of three weeks from the date of receipt of the server copy of this order without demanding any amount from the appellant.

9. It is also made clear that this order has been passed considering the peculiar facts and circumstances of the case and also taking note of the fact that the appellant is a senior citizen and from the

year 2012, the appellant and earlier his mother had been objecting to the erection of the second electric pole and the respondent Electricity Distribution Company having not responded to the same at the appropriate time, only after the intervention of the Hon'ble Chief Minister's Special Cell, the matter gained attention, we have passed this order and this shall not be treated as a precedent.

10. Consequently, the connected application, if any, also stands allowed.

(T. S. Sivagnanam)
(Chief Justice)

(Hiranmay Bhattacharyya, J.)