

20.08.2024
Court No.09
Item no.162
CP

WPA No. 16272 of 2024

Prolay Samanta @ Prolay Nemai Samanta
Vs.
The West Bengal State Electricity Distribution
Company Ltd. & ors.

Mr. Biswajit De
Ms. Mallika Manna

... for the Petitioner.

Ms. Suvasree Ghose

....for the WBSEDCL.

This writ petition has been filed challenging the inaction on the part of the Station Manager, Udaynarayanpur Customer Care Centre, WBSEDCL in granting connection to the petitioner. The outstanding dues of the erstwhile owner was being demanded.

The learned advocate for the distribution company submits that one Amalesh Adak used to be the owner of the land and was enjoying an industrial connection. The supply line was disconnected on detection of theft. The agreement between the erstwhile owner of the land and the distribution company was terminated. As per Clause 4.6.4 of Regulation 55/WBERC, connection to the premises cannot be granted as there are outstanding dues.

Clause 13.9 of Regulation 46/WBERC provides that a proposed consumer, seeking new connection

in respect of any premise, must pay the outstanding dues of the erstwhile owner on pro rata basis in case there is a nexus between the two. In this case, the authority has not been able to establish any nexus. It is an admitted position that theft was detected in 2005 and the petitioner purchased the property in 2007. The distribution company has also cited Clause 3.4.2 of the same regulation which provides that the licensee shall be eligible to recover from a new and subsequent consumer, the dues of the previous and defaulting consumer in respect of the same premises, only if a nexus between the previous and the defaulting consumer in respect of the premises is proved. The onus of proving nexus lies on the licensee.

Thus, a combined reading of the above provisions of Regulation 55 and Regulation 46 leads this court to the conclusion that unless the distribution company can prove nexus between the petitioner and the erstwhile owner, connection cannot be denied.

Needless to mention, the connection shall be granted to the petitioner within a month from the date of communication of this order. The distribution company shall be allowed to make an enquiry to detect whether there is any nexus between the petitioner and Amalesh Adak. If such nexus is detected at a later stage, then the petitioner shall

remain liable to pay the outstanding dues on pro rata basis. The connection shall be granted before any such enquiry is embarked upon.

The writ petition is disposed of accordingly.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)