

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 16625 of 2024

**Smt. Gita Nath
-versus-
CESC Limited & Ors.**

**Mr. Ujjal Kanti Jana,
Mr. Basudeb Patra.
...For the Petitioner.**

**Mr. Debjit Mukherjee.
...For CESC Ltd.**

**Mr. Bhagbat Chaudhuri,
Ms. Gopa Mainan.
...For the Respondent
Nos. 7 & 10.**

**Ms. Mitali Mukherjee.
... For the State.**

1. The District Magistrate and Collector, Howrah vide order dated 28th January, 2020 disposed of the prayer of the petitioner for finding out an alternative route to supply electricity connection at her premises.

2. The District Magistrate and Collector took note of the field inspection report submitted by the District Engineer, CESC Limited mentioning that they have not been able to find any demarcated passage or portion of land which can be used to lay underground cable for effecting electricity connection supply at the petitioner's premises.

3. The District Magistrate and Collector also took note of the fact that a civil suit being Title Suit No. 470 of 2018 pending in between the parties was *sub*

judice before the learned Civil Judge (Senior Division), 3rd Court, Howrah wherein an interim order of injunction was passed and made absolute.

4. The District Magistrate and Collector directed the Block Land and Land Reforms Officer, Sankrail to assist CESC Limited in identification and demarcation of a suitable alternative portion of the land and/or passage for effecting electricity connection to the petitioner's premises.

5. An inspection was conducted but the alternative passage/land could not be identified.

6. Because of non-identification of an unhindered passage, CESC Limited is not in a position to effect electric supply connection to the petitioner.

7. It is evident from the submission made on behalf of the parties that the private respondents are resisting and raising serious objection to the grant of electricity connection to the petitioner through their private passage.

8. It has been submitted by the learned advocate representing the private respondents that the civil suit has been decreed in their favour and, accordingly, they are not inclined to provide any access for grant of electric supply to the petitioner through their portion of land which was the subject matter of challenge in the civil suit.

9. Learned advocate representing CESC Limited has placed before this Court Rule 3 of the Works of Licensees Rules, 2006.

10. On a perusal of the subject Rules, it appears that the District Magistrate is the authority to decide the issue conclusively. The District Magistrate also has the power to fix the amount of compensation, if any, if the land of a private party is used for providing electric connection to a neighbour.

11. In the instant case, the District Magistrate directed the Block Land and Land Reforms Officer, Sankrail to identify and demarcate a suitable alternative portion or passage for effecting electric connection to the petitioner's premises. The District Magistrate and Collector ought to have passed the final order after perusal of the report filed by the Block Land and Land Reforms Officer. The matter has been left unresolved by the District Magistrate and Collector, which ought not to have been done.

12. The authority ought to have appreciated the provision of law where the District Magistrate has been authorised to fix up the amount of compensation or of annual rent or of both if the land of a third party is used for granting electric supply connection in favour of an applicant in the event of non-availability of an unhindered access.

13. In view of the above, the impugned order by the District Magistrate and Collector, Howrah dated 28th January, 2020 disposing of the request of the petitioner is set aside.

14. The District Magistrate and Collector is directed to take steps in terms of Rule 3 of the Works of Licensees Rules, 2006 and find out a way for providing electric connection to the petitioner's premises. If for the said purpose the electricity line is required to be drawn over the private land of the private parties, the same shall be done upon assessment of the compensation amount or of annual rent or of both as provided in law.

15. Steps shall be taken by the District Magistrate and Collector, Howrah at the earliest but positively within a period of eight weeks from the date of communication of this order.

16. The decree passed in the civil suit mentioned hereinabove will not stand in the way of the District

Magistrate and Collector to take steps in the matter in terms of the Rules as mentioned hereinabove. Electricity being an essential commodity ought not to be deprived from being enjoyed by the petitioner. The laying of lines and the grant of electricity will not create any right or equity in favour of the petitioner in any manner whatsoever.

17. The writ petition stands disposed of.

18. The communicating memo of the Block Land and Land Reforms Officer, Sankrail, Howrah addressed to the Sub Divisional Land and Land Reforms Officer, Sadar Howrah dated 14th November, 2024 be retained with the records.

19. Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)