

19.08.2024
Sl. No.24(DL)
srm

W.P.A. No. 19724 of 2024

Mr. Arindam Dey

Versus

**West Bengal State Electricity Distribution
Company Limited & Ors.**

Mr. Suman Basu,
Ms. Debanwita Pramanik

...for the Petitioner.

Mr. Debjit Mukherjee

...for the WBSEDCL.

Affidavit-of-service is taken on record.

The postal article sent to the respondent No.4 is taken on record. It appears that the respondent No.4 has refused service. Even notice of mentioning has been refused.

Refusal is a good service. Thus, the matter is taken up in the absence of the said respondent.

It appears that the Assistant Engineer and Station Manager, Chandannagar-II Customer Care Centre informed the petitioner that a H beam pole would be installed in front of the shop/premises of the petitioner. The same was being shifted from the original position. The respondent No.4 had raised an objection with regard to the pole which allegedly had been fixed

in front of his land. Thereafter the District Magistrate passed orders, directing such shifting.

It is submitted that the petitioner runs the shop from the ground floor and resides on the first floor. It appears that the District Magistrate, Hooghly and the High Court had passed certain directions in this regard. The petitioner contends that the order of the High Court was confined to grant of liberty to the respondent No.4 to approach the District Magistrate, Hooghly with the dispute and the District Magistrate was directed to decide the matter upon hearing the respondent No.4, all objectors and also the West Bengal State Electricity Distribution Company Limited. The District Magistrate was directed to decide the matter on its own merit. It appears that an order was passed by the District Magistrate to shift the H beam pole from its erstwhile position, which was allegedly in front of the premises of the respondent No.4.

The petitioner contends that the District Magistrate ought to have heard the petitioner. The authorities could not have unilaterally decided to shift the pole to a place right in front of the shop of the petitioner. The communication of the authority also indicates that the authorities were conscious that the H beam pole would be right in front of the petitioner's shop.

It appears from the contentions of the distribution company that the pole was installed with a gap of 9'9" from the land and on the footpath of the Chandannagar Municipal Corporation, upon maintaining all safety rules. There was vacant land behind the H beam pole, which was demarcated by a boundary wall.

As the petitioner was not heard, the above aspect was not taken into consideration, by the District Magistrate. It appears that the District Magistrate proceeded on the direction of the High Court by hearing the respondent No.4, but without ascertaining whether there was sufficient space between the house of the respondent No.4 and the alleged pole.

Thus, the impugned communication is set aside.

The order of the District Magistrate, Hooghly shall not be given any effect to, till the dispute raised by the petitioner is heard afresh by the District Magistrate, in presence of the petitioner, the respondent No.4, the representative of the West Bengal State Electricity Distribution Company Limited as also the representative of the Chandannagar Municipal Corporation.

The presence of the representative of the municipal corporation is necessary in order to identify the land on which the H beam pole has been installed. It is the specific contention of the West Bengal State Electricity Distribution Company Limited that the H beam pole is on the corporation's land and on a

footpath with more than 9'9" gap between the land and the footpath.

It is also contended that the respondent No.4 has not yet paid the cost of shifting. Thus, the process of shifting is kept in abeyance.

The petitioner will serve a copy of this writ petition along with his objections to the District Magistrate, Hooghly and the District Magistrate, Hooghly shall decide the matter afresh in the presence of all the parties. A copy of this order be served upon the respondent No.4, by the petitioner.

The writ petition is, thus, disposed of.

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.)