

19.08.2024
Court No.09
Item no.23
CP

WPA No. 19721 of 2024

Naba Kumar Mandal
Vs.
The State of West Bengal & ors.

Mr. Kaustav Banerjee
Ms. Ria Kundu
... for the Petitioner.

Mr. Ansar Mandal
Mr. Tanweer J. Mandal
....for the State.

Mr. Sujit Sankar Koley
....for the WBSEDCL.

The petitioner contends that the Station Manager, Champahati Customer Care Centre, WBSEDCL had failed to comply with the direction of the District Magistrate, South 24 Parganas. The electric poles were directed to be shifted from the petitioner's land to the alternative route suggested by the distribution company. Irrespective of whether any objection had been taken to the alternative route or not, the order of the District Magistrate was final and binding. The said order had not been set aside in any subsequent proceeding.

Learned advocate for the State respondents and for the distribution company submit that one Swapan Mondal had filed WPA 27587 of 2023 before this court challenging the order of the District Magistrate dated November 9, 2023. A Coordinate Bench held that if the alleged alternative route had

been proposed through the land of Swapan Mondal, then Swapan Mondal ought to have been heard.

It is an admitted position that Swapan Mondal was not heard. Accordingly, the writ petition was disposed of with a direction upon the District Magistrate once again to decide the issues and objections raised by Swapan Mondal.

It appears from the order of His Lordship that the decision of the District Magistrate had not been set aside, but the tenor of the order of His Lordship would indicate that His Lordship was of the view that the order of the District Magistrate dated November 9, 2023 ought to have been passed upon hearing Swapan Mondal and his objections. Although there appears to be a submission made on behalf of the District Magistrate before His Lordship that the route would not cross through the land of Swapan Mondal, this court is of the view that the direction of His Lordship dated May 21, 2024 passed in WPA 27587 of 2023 should be complied with by the District Magistrate and a proceeding should be held upon hearing Swapan Mondal and the petitioner as also any other person likely to be affected by the shifting of poles. The order relied upon in this proceeding, shall be kept in abeyance for all practical purposes till a final decision is arrived at upon hearing Swapan Mondal, as per the direction of His Lordship.

Under such circumstances, the writ petition is disposed of with a direction upon the District Magistrate to conclude the proceedings. The petitioner will be at liberty to file his objection and substantiate his claim that the alternative route as suggested by the distribution company would not in any way cross through the land of Swapan Mondal.

All these aspects shall be looked into. If necessary, an authorized representative of the District Magistrate and the Block Land and Land Reforms Officer, shall hold an inspection in presence of the petitioner as also the authority of the distribution company to ascertain, identify, demarcate and fix the route through which the alternative route would be drawn, including installation of the poles.

A report shall be supplied to all interested parties. The parties will be entitled to respond to such report and finally a decision will be arrived at by the District Magistrate in accordance with law.

The entire exercise which has already begun shall be concluded within three months from date.

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.)