

AD-10
Ct No.09
03.04.2024
TN

WPA No. 23190 of 2023

Sami Ahmed
Vs.
The State of West Bengal and others

Mr. Asit Kr. Bhattacharya,
Ms. Mousumi Biswas
.... for the petitioner

Mr. Dwarika Nath Mukherjee,
Mr. Manik Lal De
.... for the State

Dr. Madhusudan Saha Roy
.... for the CESC Limited

Mr. Abir Das
.... for the respondent no.4

1. Learned counsel for the CESC Limited, in his usual fairness, points out that an error has crept in the report to be filed today inasmuch as the date of the inspection has been erroneously mentioned as April 01 instead of April 02, 2024.
2. Learned counsel for the CESC Limited files the report.
3. Mr. Abir Das, learned counsel appearing for the private respondent, submits that the private respondent seeks to use an exception to the said report. On query of court, learned counsel for the private respondent clarifies that the documents which were purportedly produced by the petitioner and referred to in the report were not handed over to the private respondent to enable the private respondent to raise objection.

4. However, this is not an adjudication of the private dispute between the petitioner and the private respondent.
5. What is to be *prima facie* ascertained by the Distribution Licensee is whether the petitioner has produced any *prima facie* proof of his occupation.
6. Thus, it is entirely between the petitioner and the Distribution Licensee as to whether the licensee is objectively satisfied regarding such possession. In any event, such satisfaction of the CESC Limited, which is the distribution licensee here, does not tantamount to creating any right in favour of the petitioner which the petitioner does not otherwise have in law. It will always be open to the private respondent to dispute all questions including those of right, title and possession of the petitioner in any appropriate forum, if disputed.
7. Be that as it may, it transpires that the CESC Limited itself is of the opinion that in view of the petitioner having furnished copies of rent control challans and certificate of enlistment, the *prima facie* possession of the petitioner has been established, which is sufficient to attract the provisions of Section 43 of the Electricity Act, 2003 under which an occupier is entitled to electricity connection.
8. Thus, there is no further need to delay the matter by directing exception to be filed by the private respondent in view of the above reasons. Moreover, it has to be kept in mind that the petitioner is going without

electricity for which the necessity, particularly in view of the impending onset of summer, is urgent and extreme.

- 9.** Accordingly, WPA No. 23190 of 2023 is disposed of by directing the CESC Limited to give a loop metered connection to the petitioner from the existing meter board position at the premises subject to compliance of all formalities by the petitioner in that regard. Such connection shall be given within a fortnight from the date of compliance of formalities by the petitioner or from this date, whichever is later.
- 10.** In the event any obstruction is offered by the private respondent and/or his men and agents, it will be open to the CESC personnel to approach the local police station who upon such approach shall act on a server copy of this order and grant such assistance at the cost of the petitioner, if necessary removing any padlock or other hindrance in the process.
- 11.** It is, however, reiterated that nothing in this order shall create any right, title or legal possession in favour of the petitioner if the petitioner is otherwise not entitled to the same in law.
- 12.** There will be no order as to costs.
- 13.** Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)