

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 24738 of 2023

Mustak Ali

Vs.

The State of West Bengal & Ors.

Mr. Sayantan Hazra

...for the petitioner

Mr. Tapas Kumar Adhikari,

Mr. Tapas Ballav Mondal

...for the State

Mr. Debjit Mukherjee

...for the WBSEDCL

1. The petitioner is one of the sons/heirs of a deceased ex-consumer of electricity from the West Bengal State Electricity Distribution Company Limited (WBSEDCL) with regard to a husking mill. The father of the petitioner died on September 28, 2020. The petitioner was under the impression that no electricity charges were leviable on the said meter. However, the petitioner has subsequently come to know that the WBSEDCL is raising bills for the said connection.
2. On January 24, 2023 the petitioner asked for disconnection of the electricity connection standing in the name of his deceased father, but the

WBSEDCL having not done so, the present writ petition has been preferred.

3. Learned counsel for the WBSEDCL submits that the deceased father of the petitioner has left three other sons as heirs apart from the petitioner. Apparently, the said other sons have been enjoying electricity from the connection sought to be severed at the instance of the petitioner.

4. It is argued that the petitioner wrote a representation for such purpose to the WBSEDCL, from which it is disclosed that the relation between the petitioner and his three brothers is strained. The petitioner claims to be of the impression that the cable catering to electricity supply to the meter-in-question, which is standing in the name of his deceased father, is disturbing the petitioner's premises.

5. Be that as it may, learned counsel for the WBSEDCL contends that at the time when the WBSEDCL personnel sought to disconnect the supply on the demise of the deceased consumer, resistance was faced from the other three brothers of the petitioner, who have not been impleaded in the present writ petition.

6. Upon hearing learned counsel for the parties, the first question which arises in the mind is whether the writ petition is bad for non-joinder of

the other three brothers, who are alleged objectors to the disconnection.

7. However, if the petitioner had asserted his own right and an objection was raised by third parties, they would be necessary parties to the writ petition. In the present case, what the petitioner is asserting is not a right of the petitioner, either legal or Constitutional, but he seeks to enforce the incumbent duty on the part of the Distribution Licensee to disconnect an electricity supply, which still stands in the name of a deceased consumer. Admittedly, the father of the petitioner has died long back. It was the duty of the WBSEDCL, immediately upon coming to know of such demise, to disconnect the electricity supply-in-question, particularly since no application has been made for transfer or substitution of name with regard to the said meter, either from the end of the other three brothers of the petitioner or from someone else.

8. Even today, no such application for substitution or transfer of name with regard to the meter has been made and the WBSEDCL is duty-bound in law to disconnect the electricity supply.

9. The petitioner, being one of the heirs of his father, may very well apprehend liability if bills are continued to be raised in the name of the deceased

consumer and, thus, has the *locus standi* to prefer the instant challenge.

10. Hence, W.P.A. No. 24738 of 2023 is disposed of by directing the WBSEDCL to disconnect the electricity supply-in-question standing in the name of the deceased father of the petitioner, Late Sabed Ali, within a fortnight from date.

11. If the WBSEDCL personnel are resisted from any quarter in doing so, it will be open to the said personnel to approach the Officer-in-Charge or Inspector-in-Charge (as applicable) of the local police station for rendering adequate police help in that regard.

12. The parties as well as all concerned shall act on the server copy of this order, without insisting upon prior production of a certified copy thereof, for compliance.

13. It is made clear, however, that nothing in this order shall debar any person, including the other three brothers of the petitioner, from applying for fresh electricity connection in their own names, in which case, the WBSEDCL will be at liberty to claim statutory dues from the said applicant(s).

14. Written instructions filed today by the learned counsel for the WBSEDCL be kept on record.

15. There will be no order as to costs.

16. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)