

08 24.01.2024
NB Ct. 14

WPA 25083 of 2023

Syed Mojammel Ali & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Arun Naskar.
...for the petitioners.

Mr. Biswabrata Basu Mallick Id.AGP.,
Mr. Ratul Biswas.
...for the State.

Mr. Aniket Mitra
..for the WBSEDCL.

Supplementary affidavit filed on behalf of the petitioners
is taken on record.

A copy of the same is served upon the learned counsel
for the other side.

Learned counsel appearing on behalf of the petitioners
submits as follows. The petitioners are the accused in Panskura
P.S. Case No.709 dated 08.10.2023 under Sections
143,149,186,323,342,379 and 506 of the Penal Code. Some of
the petitioners had earlier approached this Court contending
that the respondent electricity authorities being the West Bengal
State Electricity Distribution Company Limited (WBSEDCL), in
violation of statutory provisions was, to provide electricity
connection of 440 volts in an area where the petitioners and
others congregate in numbers more than 100 to hold prayers at
the nearby mosque. This was prohibited as per the statute. By
an order dated 12.05.2023 passed by a coordinate Bench of
this Court in WPA 11810 of 2023, the respondent authorities

were restraining from giving electricity connection to the private respondent no.8 at the proposed site till a certain date. As would appear from the final order dated 28.11.2023, the writ petition was disposed of by directing the WBSEDCL to comply with the provisions of Section 54(1)(b) of the 2003 Act and to ensure that provisions of Section 53 of the Act are also adhered to. However, in violation of this and during pendency of the writ petition, the electricity authorities tried to provide such electricity connection without taking necessary precautions. When merely an objection to do so was raised by local residents, the instant FIR was lodged in collusion with the police authorities. There is no compliance of the directions passed finally by this Court even after such order was passed.

Learned counsel appearing on behalf of the electricity authorities submits as follows. The allegations made in the writ petition are denied. First, at the time when the respondent electricity authorities went to take steps for charging 11kv line i.e., on 07.10.2023, there is no interim order in existence restraining the petitioners from doing so. In fact, by a final order, this Court directed the respondent electricity authorities to adhere to the provisions of Sections 53 and 54 of the Electricity Act, 2005, which has been done after such order was passed. On 07.10.2023, when the electricity authorities went to give the electricity connection, a mob of 10 people came and asked them to stop work. When they showed the order of the Court dated 01.09.2023, they threw it aside. They abused the electricity authorities, physically chased them after threatening loudly and by taking branches of trees in their hand. They also

detained the vehicles used by the electricity authorities and thereafter, stole their wrist watches, electrical fittings materials, conductors and other materials from the vehicles. The personnel could somehow extricate themselves from their clutches and flee from the scene. A prima facie case is clearly made out under the provisions alleged.

Learned counsel appearing on behalf of the State relies on the report and submits that as cognizable offences were made out on the complaint lodged by the petitioners, an FIR was registered and the same is being investigated into.

It is the contention of the electricity authorities that they have complied with the directions passed by a coordinate Bench of this Court.

It further appears that during the pendency of the said writ petition, but at a time when no stay order was in existence, the electricity authorities went to provide the electricity connection and were purportedly resisted by the private respondents. There are allegations that they were threatened, chased away and articles were stolen.

It does not appear that there was any bar on that particular day upon the electricity authorities to try and give the electricity connection. If offences are committed by the private respondents, the same needs to be explored.

Since cognizable offences were made out, the police authorities were quite justified in registering the FIR. However, they shall investigate into the alleged offences expeditiously and in accordance with law.

However, in the circumstance that the private respondents had earlier approached this Court venting certain grievances, those private respondents who have not been granted bail by any Court of law, shall not be arrested for a period of one month from the next date of hearing. Within such time, such private respondents shall be at liberty to file an appropriate application for anticipatory bail or to seek any other appropriate relief in accordance with law.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)