

AD-13
Ct No.09
20.02.2024
TN

WPA No. 28081 of 2023

Arjun Saren
Vs.
The West Bengal State Electricity Distribution
Company Limited and others

Mr. Md. Kutubuddin

.... for the petitioner

Mr. Debanjan Mukherji

.... for the WBSEDCL

- 1.** The grievance of the petitioner is that the petitioner seeks to operate a submersible pump for which an electricity connection was applied for. Such connection has not been given by the West Bengal State Electricity Distribution Company Limited (WBSEDCL), prompting the petitioner to take out the present writ petition.
- 2.** Learned counsel for the WBSEDCL files a report of an inspection held pursuant to the direction of court. It is highlighted that there is no nearby Low-Tension Overhead Line existing near the submersible pump and, as such, drawing of overhead line of approximately 320 meter length through cultivating land and augmentation of existing Distribution Substation is required. That apart, way leave is to be produced by the petitioner from the nearby cultivators. Further, since paddy cultivation has already started in the

fields, the connection can be given, as per the extant Regulation, that is, Regulation 57, Clause 4, within 180 days.

3. Learned counsel for the petitioner submits that the cultivation season is almost over and, as such, the connection can be given to the petitioner soon. Regarding way leave permission, it is argued that the adjacent fields are open cultivable lands and, as such, it is not possible for the petitioner to obtain way leave permission from each and every owner of such lands.
4. Learned counsel for the WBSEDCL also places reliance on Rule 3 of the Works of Licensees Rules, 2006 (for short “the 2006 Rules”) subsection (1), Clause (a) of which provides that the licensee shall carry out works, lay down or place any electricity supply line or other works in, through or against any building, or over or under any land with prior consent of the owner or occupier of any building or land, for which the way leave permission is insisted upon from the present petitioner.
5. In fact, the first proviso to Clause (b) of subsection (1) stipulates that in cases where the owner or occupier of the building or land raises objections in respect of works to be carried out under the Rule, the licensee shall obtain

permission in writing from the District Magistrate or the Commissioner of Police or any other officer authorized by the State Government in this behalf for carrying out the works.

- 6.** Sub-section (2) of Section 3 provides that when making an order under sub-rule (1), the District Magistrate or the Commissioner of Police shall fix, after considering the representations of the concerned persons if any, the amount of compensation or of annual rent or both which should in his opinion be paid by the licensee to the owner or occupier.
- 7.** Since, in the present case, the petitioner is not in a position to provide way leave certificates, it is the incumbent duty of the Distribution Licensee under Rule 3 of the 2006 Rules to attempt to take consent of the owners or occupiers of the adjacent properties for giving electricity connection and for such purpose laying cables/drawing overhead lines and modifying the existing substation.
- 8.** In the event no such consent can be obtained under Clause (a) of Rule 3(1), the Distribution Licensee shall take recourse to Clause (b) by approaching the concerned District Magistrate or Commissioner of Police, as applicable, to obtain permission in writing for carrying out the work.

- 9.** Upon such approach being made by the WBSEDCL, it will be on the District Magistrate or the Commissioner of Police, as the case may be, to decide the amount of compensation which will be payable by the WBSEDCL.
- 10.** However, since such modality has been clearly laid down in law, it does not lie in the mouth of the Distribution Licensee to refuse to give electricity connection to the petitioner merely because no way leave certificate has been obtained by the petitioner for such purpose.
- 11.** In any event, Section 43 of the Electricity Act, 2003 mandates the Distribution Licensee to give the electricity connection to an applicant subject to the applicant complying with all formalities.
- 12.** In such view of the matter, WPA No. 28081 of 2023 is disposed of by directing the WBSEDCL to issue an offer letter to the petitioner indicating the approximate costs for giving such connection to the petitioner.
- 13.** Upon such offer letter being raised and the petitioner complying with formalities, the WBSEDCL shall attempt to give electricity connection to the petitioner immediately after the closure of the ongoing cultivation season but positively within April 15, 2024.

- 14.** In the event any obstruction is raised from any quarter in the WBSEDCL doing so, it will be open to the WBSEDCL to take recourse to the modalities provided in Rule 3(1)(b) and the provisos thereto under the Works of Licensees Rules, 2006 expeditiously.
- 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 with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)