

8th January,
2024
(AK)
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W.P.A 28423 of 2023

Smt. Labani Khan
Vs.
CESC Limited and others

Mr. Bidyut Kr. Halder
Mr. Indranil Halder
...for the petitioner.

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

1. On consent of both sides, the matter is taken up for hearing in view of the urgency although it is appearing under the heading “To be Mentioned”.

2. Learned counsel for the petitioner contends that the petitioner had moved this court being aggrieved by the proposed installation of a transformer immediately in front of the petitioner’s house, thereby preventing the petitioner’s ingress and egress and causing danger to the petitioner.

3. This court had relegated the matter to the concerned District Magistrate. Upon the matter reaching the District Magistrate, the said authority had directed a joint inspection to be held and thereafter vide the impugned order dated December 11, 2023 directed the transformer to be installed at the proposed location.

4. Learned counsel contends that the impugned order is devoid of reasons. It is further argued that the

petitioner's ownership of the property-in-question has not been considered by the District Magistrate at all. Thus, it is submitted that the impugned order be set aside.

5. It is further pointed out that the petitioner's plea for shifting the transformer to some other alternative location has been overlooked by the Magistrate.

6. Learned counsel for the CESC Limited points out that the matter was taken up for hearing in presence of the petitioner on both occasions, that is, on September 8, 2023 and December 11, 2023.

7. A joint inspection was held and the report submitted and the version of all the concerned authorities were taken.

8. It is argued that it transpired from the version of the authorities that the transformer-in-question is to be installed on a land belonging to the Howrah Municipal Corporation, which is public land.

9. Secondly, no ingress and egress to the property-in-question would take place if such installation is done.

10. Thirdly, it is argued that the petitioner is not the owner of the property-in-question.

11. A perusal of the orders annexed to the writ petition and the supplementary affidavit shows that the matter was heard not only in the presence of the petitioner but also in the presence of the District Engineer of the CESC Limited, Howrah, the Officer-in-Charge of the

Town Survey Unit, Howrah, the Inspector-in-Charge of the Malipachghara Police Station and the Commissioner, Howrah Municipal Corporation in the final hearing.

12. It transpires that the District Magistrate took into consideration the field enquiry report, which was filed upon joint inspection with the petitioner.

13. From the field enquiry report, the District Magistrate observed that the installation of the distribution transformer on the existing pole mounted structure was required for uninterrupted power supply.

14. On the basis of such report as well as the materials before the District Magistrate, it was held that the District Engineer of the CESC Limited was to go on with the installation of the distribution transformer on the existing pole.

15. Nothing is on record to indicate that there was any plausible reason not to install the transformer on the existing electricity pole.

16. Moreover, Rule 3 of the Works of Licensees Rules, 2006, does not contemplate a detailed hearing with elaborate reasons akin to a civil court.

17. It is evident from the impugned order that the District Magistrate took into consideration all relevant materials as well as heard the relevant authorities as well as the petitioner and ultimately came to the conclusion that the transformer is to be installed on the property as designated.

18. In any event, I do not find any reason to interfere with such order, since there is no flaw in the decision-making process of the District Magistrate, which is the limited scope of interference in an application under Article 226 of the Constitution.

19. Accordingly, WPA 28423 of 2023 is dismissed without any order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)