

05.08.2025
SI No.26 & 27
Ct. No.15
S.A.

WPA 9378 of 2024

Biswanath Mondal & Anr.

-vs-

**West Bengal State Electricity Distribution
Company Limited & Ors.**

with

WPA 25272 of 2024

Dhirendra Nath Singh & Ors.

-vs-

**West Bengal State Electricity Distribution
Company Limited & Ors.**

Mr. Prasenjit Mukherjee

Mr. Arghya Kamal Das

Mr. Ishan Bhattacharya

Ms. Babita Pramanik

...for the petitioners in WPA 9378 of 2024

Mr. Sourojit Dashgupta

Ms. Sahanaj Parveen

...for the petitioners in WPA 25272 of 2024

Ms. Munmun Ganguly

Mr. Debangshu Dinda

...for the State in WPA 9378 of 2024

Mr. J. L. De

Mr. Kaustav Bhattacharya

...for the State in WPA 25272 of 2024

Ms. Susmita Chatterjee

...for WBSEDCL in WPA 9378 of 2024

Mr. Debjit Mukherjee

...for WBSEDCL in WPA 25272 of 2024

Again, a dispute regarding way leave has surfaced.

The petitioners in WPA 9378 of 2024 challenge an order dated November 21, 2023, passed by the District Magistrate, South 24 Parganas, under Rule 3 (1)(b) of the Works and Licensee Rules, 2006. Conversely, the

petitioners in WPA 25272 of 2024 pray for implementation of the said order.

In view of the common factual background, both writ petitions are heard analogously and are being disposed of by this common order.

The petitioners in WPA 25272 of 2024 had sought an electricity connection for their residential premises from the West Bengal State Electricity Distribution Company Limited (WBSEDCL). The connection could not be effected due to objections raised by the petitioners in WPA 9378 of 2024.

The dispute was referred to the District Magistrate, South 24 Parganas, in terms of Rule 3 (1)(b) of the Works and Licensee Rules, 2006. Upon due enquiry, the District Magistrate disposed of the matter with the following observations:

“Since, electricity is a basic right and necessity, this authority is of the considered view that the petitioners Gorachand Mondal, Ashok Singh & Dhirendra Nath Singh are entitled to supply of electricity through the proposed passage used by them for ingress and egress to their house and this will not abridge any right title and interest of the respondent, Biswanath Mondal.

Hence, after hearing all the concerned parties and considering all the documents on record, DE & SM of Nodakhali CCC, WBSEDCL is directed to give connection to the petitioners, Gorachand Mondal, Ashok Singh and Dharendra Nath Singh through the proposed route used by them for ingress and egress to their house since the said route is the only feasible route as per report of WBSEDCL officials.

However, the drawing of overhead line or erection of pole for granting electric connection to the petitioners will neither create any new right nor extinguish nor abridge any existing right of the private respondent over such passage.

WBSEDCL shall give connection within 2 weeks of the communication of the order.”

To assail the order of the District Magistrate dated November 21, 2023, Mr. Prasenjit Mukherjee, learned advocate for the petitioners in WPA 9378 of 2024, argued that the passage directed to be used for erection of eight poles to provide an electricity connection to the petitioners in WPA 25272 of 2024 is exclusively owned by his clients. It was contended that the petitioners in WPA 25272 of 2024 have no legal right over the said passage.

It is further argued that an alternative route exists, which could have been utilised by WBSEDCL for effecting the connection. According to the petitioners, the District

Magistrate failed to consider this alternative route and thus passed an order prejudicial to their interest.

I am, however, not inclined to interfere with the impugned order of the District Magistrate on the grounds advanced by Mr. Mukherjee.

It is well settled that a way leave has to be given by the concerned landowner to effect an electricity connection. This principle has been authoritatively laid down in **AIR 2012 Cal 205 (Sk. Samsud Doha vs. West Bengal State Electricity Distribution Company Limited)**.

However, Rule 3(2) of the Works and Licensee Rules, 2006, entitles a landowner to appropriate compensation if his land is utilised for this purpose. In the present case, it appears that, upon considering the report of the Block Development Officer, Budge Budge-II, and other relevant materials, the District Magistrate arrived at a definite finding that the said common passage is the most suitable route for effecting the electricity connection.

There is no scope for interference with this factual finding in the exercise of judicial

review under Article 226 of the Constitution of India.

Nonetheless, I am of the view that the District Magistrate ought to have considered the issue of compensation under Rule 3(2) and passed an appropriate order in that regard. It also appears that the District Magistrate has not determined whether the passage is a common passage or a rayati land of the petitioners.

If the passage is indeed rayati land, the petitioners would be entitled to compensation. This issue remains undecided.

Accordingly, I direct the District Magistrate to pass an appropriate order regarding compensation in terms of Rule 3(2) within three months from the date of communication of this order.

With respect to the direction for effecting the electricity connection in favour of the petitioners in WPA 25272 of 2024, learned counsel for WBSEDCL submits that due to resistance by the petitioners in WPA 9378 of 2024, the connection could not be effected.

In view of the above, I direct WBSEDCL to implement the order of the District Magistrate with the assistance of the local police station. The petitioners in WPA 25272 of 2024 shall bear the cost of such police assistance.

The electricity connection shall be effected within four weeks from the date of communication of this order.

Accordingly, **WPA 9378 of 20254** and **WPA 25272 of 2024** are disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)