

19.03.2025
Sl. No.47
akd

W. P. A. 29801 of 2024

[Md. Shabbir -Vs- The CESC Ltd. &Ors.]

Mr. Abdul Hamid Molla
Md. Abdul Hakim
Mr. Sahil Hamid
Ms. Nupur Chaudhuri
Sk. Zafir

... .. for the petitioner

Dr. MadhusudanSaha Roy
Mr. Debanjan Chatterjee
Mr. BiplabDandapat

... .. for CESC Ltd.

Ms. Suchishmita Ghosh Chatterjee
Mr. ZeeshanHaque
Mr. Chunky Agarwal
Mr. AbhishmitaGoswami

... .. for respondent no.5

Mr. Pinaki Bhattacharyya
Ms. Priyanka Jana

... .. for the State

1. Petitioner has preferred the instant writ petition seeking implementation of the reasoned order dated 14.10.2024 passed by the Senior Manager Mains (Power), CESC Ltd., wherein specific directions were given for restoration of electricity supply to the petitioner's commercial establishment.
2. It is the case of the petitioner that his father was a tenant of respondent no.4 since 20.12.1990 and had been operating a photostat (xerox) shop from the said premises. After his father's demise on 30.01.2019, the petitioner continued with the same trade and has been paying monthly rents to the landlord. It is the petitioner's grievance that despite having availed electricity supply uninterruptedly till 15.10.2021, his connection was arbitrarily disconnected at the behest of the respondent no. 5.

Thereafter, respondent no.4 initiated a Title Suit No.22 of 2022 and the same is pending before the Commercial Court at Alipore. Subsequently, the petitioner applied for fresh electricity connection in his name vide application dated 24.06.2024. The official of the respondent-CESC Ltd. conducted site inspection on 26.06.2024. Thereafter, vide letter dated 27.06.2024, the respondent-CESC Ltd. informed the petitioner that since there is already a High Tension Supply existing at the site, it is not possible to grant Low Tension Supply as the same will be dangerous and hazardous.

3. The petitioner, thereafter, approached this Court by preferring a writ petition being WPA 20084 of 2024. By order dated 19.08.2024, the said writ petition was disposed of with a direction upon the respondent-CESC Ltd. to pass a speaking order after affording an opportunity of personal hearing to all the concerned parties.

4. In pursuance of the said direction, the respondent-CESC Ltd. had passed a speaking order dated 14.10.2024. In the said reasoned order, the respondent-CESC Ltd. reiterated that it is not feasible to grant new electricity connection to the petitioner. In view of the same, the respondent-CESC Ltd. had held that the petitioner shall continue to derive supply of electricity from the existing mode and directed the High Tension Consumer to restore supply of electricity to the petitioner's shop with immediate effect.

5. Despite such clear directions, respondent no. 5 has failed and neglected to act in accordance with the order, compelling the petitioner to initiate the present proceedings.

6. Learned Advocate for the respondent no.5 submits that the petitioner is an unauthorized occupant of the said premises. There is a pending civil suit being Title Suit No.22 of 2022 for his eviction. In view of the same, the petitioner is not entitled for any electricity connection.

7. This court has carefully heard the arguments advanced by the parties and perused the documents on record.

8. It is an admitted position that petitioner is in occupation of the premises in question. The issue regarding the legality of such occupation is the subject matter of the pending title suit and shall be decided by the appropriate forum in due course. It is well settled proposition of law that right to avail essential services such as electricity is not solely contingent upon the legality of one's possession. Every person is entitled to such basic amenities, subject to fulfilling procedural and statutory requirements.

9. In view of the above, this Court deems it appropriate to direct the respondent, CESC Ltd. to ensure restoration of the petitioner's electricity supply from the existing High Tension Supply within a period of four weeks from the server copy of this order. The respondent- CESC Ltd. shall be at liberty to seek necessary police assistance, if required, for effecting such restoration.

10. Officer-in-charge, Ballygunge Police Station (respondent no.6) is hereby directed to provide adequate police protection to the CESC Ltd. authorities for restoring the electricity connection of the petitioner. Costs of the same are to be borne by the petitioner.

11. Respondent no.5 is directed not to cause any obstruction and or hindrance at the time of restoration of the electricity connection of the petitioner from the existing High Tension Supply.

12. It is further clarified that the restoration of electricity supply as directed herein shall not confer any additional right, interest or equity in favour of the petitioner, nor shall it prejudice the rights of the contesting parties in the pending civil litigation.

13. With the aforesaid directions, the writ petition is disposed of.

14. Since no affidavits have been called for from the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

15. There shall be no order as to costs.

16. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)