
(2000) 05 CAL CK 0036
In the Calcutta High Court
Case No : Writ Petition No. 967 (W) of 2000

Kartick Chandra Ghosh

APPELLANT

Vs

West Bengal State Electricity Board and Others

RESPONDENT

Date of Decision : 03-05-2000

Acts Referred:

Electricity (Supply) Act, 1948 — Section 41, 41

Citation : AIR 2000 Cal 218

Hon'ble Judges : Bhaskar Bhattacharya, J

Bench : Single Bench

Advocate : N.R. Mukherjee, S. Chakraborty and Debducta Sen, for the Appellant; Bandana Basu, for the Respondent

Judgement

Bhaskar Bhattacharya, J.—By this writ application the petitioner has challenged Memo No. ADH/ 24/636 dated Oct. 12, 1998 Issued by the West Bengal State Electricity Board thereby refusing to grant new electric connection to the petitioner so long "no objection" is obtained from Public Health Engineering Directorate.

2. The petitioner applied for a new domestic connection in the required form before the Board on April 21, 1998. As mentioned above, by the memo impugned herein the Board expressed its inability to give such connection for want of "no objection" from the Public Health Engineering Directorate.

3. Being aggrieved, the petitioner has come up with this application.

4. The learned advocate appearing on behalf of the petitioner has contended that under the Indian Electricity Act ? there is no provision for getting such "no objection" from Public Health Engineering Directorate when the petitioner has applied for domestic connection in the House owned by him.

5. The Board has contested this application by filing the affidavits. In the affidavit-in-application, the Board has stated that the Public Health Engineering Directorate in order to supply drinking water in the locality paid the entire cost

for installation of the transformer and there is no question of giving connection to the residence of the petitioner from the said transformer as the same cannot bear the load of excess consumption. Therefore, unless the Public Health Engineering Directorate consents to such connection from the transformer, the Board cannot do anything. It was further stated in the said opposition that if more than 20 applicants apply for domestic connection a new transformer would be installed immediately at the cost of the Board giving preference to the petitioner. By the supplementary affidavit the Board further stated that no distributing main had yet been laid down under the provisions of Clauses IV and V of the Schedule of the Indian Electricity Act and that no supply of energy through those mains or any of the them had yet commenced in that area.

6. In affidavit-in-reply the petitioner has disputed the aforesaid statement of the Board and has contended that the Board has already drawn service line from the transformer in question and has provided domestic connection to the house of one Saraswati Maity. By a sketch map the position of the house of the petitioner and that of Saraswati Maity have also been shown. The electric bill issued to Sm. Maity has also been annexed,

7. After hearing the learned counsel for the parties and after going through the provisions contained in the Indian Electricity Act and the Electricity (Supply) Act, 1948 I am one with the learned counsel for the petitioner that the transformer is a part and parcel of the transmission line and is a Substation, (See Sub-Sections 2, 7, 11A and 12 of Section 2 of the Electricity (Supply) Act, 1948). A consumer is not required to pay for transformer and other sub-station equipments. (See Clauses (V) and (VI) of the Schedule of the Act). Thus, it is rightly pointed out by the learned counsel for the petitioner that transformer is part and parcel of a transmission line and not a service line and therefore the same exclusively belongs to a licensee viz. Board. As per provision of Section 41 of the Electricity (Supply) Act, 1948, the Board has the discretion to use for any of its purposes any transmission line including transformer. Thus, there is no question of obtaining of "no objection" from any other person.

8. Moreover, as per provision of Schedule (VI)(2) of the Act, a licensee has even the right to use service line for supply of energy to any other person.

9. Therefore, as per Clause (VI) of the Schedule of the Act it is the duty of the licensee to supply energy to the petitioner inasmuch as distributing mains have been laid down in the area and Sm. Saraswati Maity is enjoying domestic connection from such main.

10. Under the aforesaid circumstances I direct the Board to give connection to the petitioner positively within one month from the date of complying with all other formalities required under law without insisting on getting "no objection" from the Public Health Engineering Directorate. If the Board is of the view that the petitioner has not complied with any of the formalities required under law, it shall specify such non compliance positively within a month from date.

11. Writ application is thus disposed of.

12. No costs.