
(2014) 06 MP CK 0015
In the Madhya Pradesh High Court
Case No : WP No. 2840/2014

Shakuna Kushwah

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 24-06-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2014 MP 182 : (2014) 3 MPHT 452 : (2014) 3 MPLJ 620

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : A.K. Nirankari, Advocate for the Appellant; Anil Mishra, Advocate for the Respondent

Final Decision : Allowed

Judgement

Sujoy Paul, J.—This petition filed under Article 226 of Constitution challenges the legality, validity and propriety of the order dated 24.04.2014 (Annexure P/1) where by the respondents have rejected the application of the petitioner seeking fresh electricity connection.

2. This is second visit of the petitioner to this Court. Earlier petitioner preferred application seeking electricity connection from the respondents. Respondents did not decide the said application which resulted into filing of WP No. 2233/2014. This Court by order dated 09.04.2014 directed the respondents to decide the application within time limit. In turn, by order dated 24.04.2014 the application is rejected.

3. Shri A.K. Nirankari, learned counsel for the petitioner assailed the said order on the ground that petitioner is "occupier" and residing with her family in premises situated at Jai Vilas Palace. It is submitted that petitioner along with her husband is in occupation since 1982. Petitioner's husband retired from the service of Jai Vilas Palace in the year 2009. Later on, electricity supply which was provided by Palace was cut off on 16.03.2014. Thereafter the petitioner preferred

application for grant of fresh electricity connection which was erroneously rejected by the authorities. It is urged that the reason assigned for not granting connection is not sustainable in law. It is submitted that respondents have erred in holding that in absence of permission of the owner of the palace, electricity connection cannot be granted. He drew attention of this Court on Clause 4.1 and 4.14 of the M.P. Electricity Supply Code, 2004 (Code).

4. Shri Anil Mishra, learned counsel for the other side supported the impugned order. It is urged that petitioner's husband is no more an employee of the palace. They are residing in the palace premises but no permission is obtained by them from the palace for the purpose of getting new electricity connection. In absence of any permission from the owner of the premises, new electricity connection cannot be provided to the petitioner. He placed reliance on letter dated 22.03.2014 (Annexure R/1) written by Shri H.S. Pachauri to the Executive Engineer. In this letter, Shri Pachauri on behalf of palace requested that no connection be provided to the former employees of palace in absence of no objection certificate "NOC" of the palace. Shri Mishra further submits that word "occupier" is not defined in the code and therefore, occupier means the person who is having NOC of the owner of the premises.

5. No other point is pressed by learned counsel for the parties.

6. I have heard learned counsel for the parties and perused the record.

7. At the outset, I find that contention of Shri Mishra that word "occupier" is not defined, is factually incorrect. The word occupier is defined in Clause 2.1 (ff) of the Code, which reads as under:-

(ff) "Occupier" means the owner or the person in occupation of the premises where electrical energy is used or proposed to be used.

Clause 4.1 reads as under:-

Licensee's obligation to Supply

4.1 The Licensee shall, on an application by the owner or occupier of any premises located in his area of supply, give supply of electricity to such premises within the time specified in this Code (refer clause 4.74), provided (a) the supply of power is technically feasible, (b) the consumer has observed the procedure specified in this code, and (c) the consumer agrees to bear the cost of supply and services as specified.

(Emphasis supplied)

8. The definition of "occupier" makes it clear that it includes owner or the person who is in occupation of the premises. Thus, petitioner is covered in the definition of "occupier". Clause 4.1 aforesaid makes it clear that licensee is obliged to consider the application submitted by owner or "occupier". No provision is brought to the notice of this Court which mandates that application for connection can be entertained only when NOC/permission is given by the owner.

The impugned order contain singular reason for rejection i.e. the permission is not obtained by the petitioner from the owner/palace. In the opinion of this Court, said reason is without any basis and runs contrary to clause 4.1 of the Code. Petitioner being an occupier has right to seek electricity connection. No other reason is assigned for not providing electricity connection to the petitioner.

9. On the basis of aforesaid, impugned order cannot be permitted to stand. The order dated 24.04.2014 is set aside. Respondents are directed to consider and provide the electricity connection (LT Connection) for domestic use to the petitioner in accordance with law forthwith.

10. Petition is allowed. No costs.