

Constitutional Writ
Present : The Hon'ble Mr Justice Jayanta Kumar Biswas
Judgment on 08.09.2010
W.P.No.18441 (W) of 2010
Tapanendu Kundu & Anr.
-vs-
CESC Limited & Ors.

POINTS:

NEW CONNECTION: Objection of the petitioner whether to be considered before giving new connection to the respondent- **Electricity Act, 2003 S.43**

FACTS:

Petitioners alleged that ignoring their objections CESC is making arrangements for giving the fourth respondent supply of electricity, though the fourth respondent is not an occupier of any portion of the property. CESC contended that officials of CESC inspected the premises and found that the fourth respondent is in occupation of the portion in question.

HELD:

There is no dispute that objections submitted by the petitioners in writing have not yet been disposed of by CESC, and that no connection has yet been given to the fourth respondent. It will be appropriate to direct CESC to decide the petitioners' objections. After hearing the parties, recording proceedings, keeping in the records pieces of evidence produced by the parties, CESC shall decide the fourth respondent's application for new connection to the portion of the property in question. If CESC relies on any inspection report or any other document or material produced by the fourth respondent, then authenticated copies thereof shall be supplied to the petitioners.

Paras 4 and 5

Mr. Sougata Palfor the petitioners
Mr. Avishek Guhafor CESC
Mr. P.N. Sharma Mr. S.K. Pandey	..for the third respondent

The Court : The petitioners in this art.226 petition dated August 30, 2010 are alleging that ignoring their objections CESC is making arrangements for giving the fourth respondent supply of electricity, though the fourth respondent is not an occupier of any portion of the property.

2. Counsel for CESC submits that after receiving the fourth respondent's application for new connection officials of CESC inspected the premises and found that the fourth respondent is in occupation of the portion in question. Correctness of this submission has been strongly disputed by counsel for the petitioners, who has invited counsel for CESC to produce evidence in support of the case that the fourth respondent is in occupation of any portion of the property.

3. Counsel for the third respondent has said that the fourth respondent has sufficient evidence to show that the fourth respondent is in occupation of the portion of the property in question. To this, counsel for the petitioners has said that the third respondent, a political leader, is supporting the fourth respondent who is totally unknown to the petitioners.

4. There is no dispute that objections submitted by the petitioners in writing have not yet been disposed of by CESC, and that no connection has yet been given to the fourth respondent. I am, therefore, of the view that it will be appropriate to direct CESC to decide the petitioners' objections. Accordingly, I dispose of the petition ordering as follows.

5. After hearing the parties, recording proceedings, keeping in the records pieces of evidence produced by the parties, CESC shall decide the fourth respondent's application for new connection to the portion of the property in question. If CESC relies on any inspection report or any other document or material produced by the fourth respondent, then authenticated copies thereof shall be supplied to the petitioners.

6. Decision in terms of this order shall be given within three weeks from the date of communication of this order. The reasoned decision shall be communicated to all concerned at once. Nothing in this order shall prevent the petitioners from approaching the Civil Court and seeking appropriate relief during pendency of the proceedings before CESC. No costs. Certified xerox.

(Jayanta Kumar Biswas, J)