

Court No. - 21

Case :- WRIT - C No. - 11053 of 2024

Petitioner :- Shekhar Kapoor And 10 Others

Respondent :- State Of Up And 3 Others

Counsel for Petitioner :- Akanksha Mishra

Counsel for Respondent :- C.S.C.,Pranjal Mehrotra,Ratan Deep Mishra

Hon'ble Manoj Kumar Gupta,J.

Hon'ble Kshitij Shailendra,J.

1. The petitioners are tenants of different shops in a building situated at Station Road, Moradabad. All of them were having separate election connection. The respondents are undertaking widening of road under Smart City Development Project. In the process, they have removed overhead wires and as a consequence whereof the electricity supply to the premises of the petitioners got disrupted. The respondents had also demolished front part of the building situated at station road to carry out widening and debris is still lying in front of the building.

2. The petitioners have come up before this Court praying for restoration of their electricity supply.

3. The defence of the respondents is that the landlord of the petitioners as well as the petitioner had instituted various proceedings in different courts and had obtained injunction orders in their favour. As a result thereof, the work of laying of underground cable could not be completed. It is not disputed that civil suit was filed by the Hindu Education Society, the lessor against Nagar Nigam, Moradabad for prohibitory injunction restraining it from demolishing the building of the Society. In the said suit, an order of status quo is in operation. We are also informed that the petitioners had challenged the notices dated 12.01.2024 and 16.04.2024 issued by Nagar

Ayukt, Nagar Nigam, Moradabad directing removal of alleged unauthorized constructions. In the said case, an interim order was passed restraining Nagar Nigam from demolishing any part of the building in pursuance of the aforesaid notices.

4. Learned counsel for the petitioners submits that the interim order granted by this Court has been extended from time to time and is still in operation. She also points out that Nagar Nigam itself cancelled the notice dated 12.01.2024 by its subsequent order dated 26.02.2024. She further submits that the issue as to whether any part of the building is to be demolished or not is a separate issue and cannot be made a defence for not restoring the electricity supply.

5. Shri Pranjal Mehrotra, learned counsel appearing on behalf of Electricity Department has placed on record the written instructions received from Executive Engineer, Electricity Distribution, Division-I, Moradabad. Paragraph Nos. 46 and 49 of the written instructions are reproduced below:

"46. That in reply to the contents of para no. 46 of the writ petition, it is made clear that electricity supply to the petitioners were discontinued due to the removal of overhead electricity line under the Smart City Project and the electricity supply to the petitioners was to be restored through underground electricity line which is to be completed in front of the shops of the petitioners because some front portion of the shops of the petitioners could not be removed due to the opposition of the petitioners also heavy debris is accumulated on the road in front of the petitioners shops. It is also made clear that debris is to be removed by the Nagar Nigam Moradabad and so long as aforesaid debris is not removed and remaining portion of the front of the shops of the petitioners is removed underground electricity supply may not be provided to the petitioners.

It is also made clear that it is evident from the perusal of the writ petition that many writ petitions and civil suits are pending between the petitioners and Nagar Nigam, Moradabad and hence Nagar Nigam Moradabad is not removing the remaining portion and debris accumulated on the road in front of the shops of the petitioners. So respondent No. 3 is unable to complete the underground electricity supply line to provide supply to the

petitioners.

49. That the contents of para no. 49 of the writ petition are not admitted as mentioned in para under reply. Respondent no. 3 has not taken any action in contravention of the order of the Hon'ble High Court. However, respondent No. 3 is making efforts to restore the supply of electricity to the petitioners through any alternative procedure or through nearby overhead electricity line."

6. He submits that since overhead wires have been removed and the Nagar Nigam is not removing the debris in front of the shops, therefore, the Electricity Department is finding it difficult to restore the electricity supply. He states that in case, the debris is cleared by the Nagar Nigam, the Electricity Department would make some arrangement for restoring the electricity supply as is also the stand taken in paragraph 49 of the written instructions.

7. Shri Ratan Deep Mishra, who has accepted notice on behalf of Nagar Nigam, Moradabad, states that now he has no instructions in the case and some other counsel will appear on behalf of Nagar Nigam, Moradabad. However, except for him, no one is present before us to place the stand of Nagar Nigam, Moradabad in the matter.

8. Having regard to the undisputed fact that the petitioners were having valid electricity connection and the only reason for disconnecting the electricity supply was that overhead wires were to be replaced by the underground cables, we are of the opinion that said ground cannot be a valid excuse for indefinite time. The Nagar Nigam and the Electricity Department are under legal obligation to work together and remove the debris and restore the electricity supply to the lawful consumers.

9. We issue an ad-interim mandamus directing the respondents to coordinate amongst themselves and ensure restoration of electricity supply to the petitioners' premises within 48 hours,

failing which they would show cause as to why this Court should not impose exemplary damages for having disrupted valid electricity connection of consumers for such a long period.

10. List as fresh on 10.07.2024.

11. Learned counsel for the petitioners shall serve copy of instant order upon Nagar Ayukt, Nagar Nigam, Moradabad.

Order Date :- 30.5.2024

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(Kshitij Shailendra,J.) (Manoj Kumar Gupta, J.)