

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

ON THE 11TH DAY OF JUNE, 2021

BEFORE:

HON'BLE SHRI JUSTICE MANOJ KUMAR TIWARI

Writ Petition (M/S) No. 350 of 2021

BETWEEN:

Chandan SinghPetitioner

(By Mr. Bharat Singh, Advocate)

AND:

State of Uttarakhand & othersRespondents

(By Mr. Devesh Ghildiyal, Brief Holder for the State of Uttarakhand/respondent no. 1, Mr. N.S. Pundir, Advocate for respondent nos. 2 & 3 and Mr. S.K. Mandal, Advocate for respondent no. 4)

JUDGMENT

Respondent no. 4 is aunt of the petitioner. According to petitioner, due to the objection raised by respondent no. 4, Uttarakhand Power Corporation Ltd. is not in a position to restore the electricity connection to petitioner's tube-well.

2. By means of this writ petition, petitioner has sought the following relief:

"(i) a writ order or direction in the nature of mandamus commanding the respondent No. 2 & 3 to restore the electricity connection of tube well of the petitioner and supply the electricity to him forthwith for operating the Tube well of the petitioner for irrigation of his fields."

3. Admittedly, dispute is pending between petitioner and respondent no. 4 regarding family property. Respondent no. 4 had earlier filed Writ Petition (M/S) No. 1102 of 2020 for restoring

electricity connection to her tube-well. The said writ petition was disposed of by this Court vide order dated 28.09.2020. Relevant extract of the said order is reproduced below:

"Mr. Rajveer Singh, learned counsel for the petitioner submits that petitioner will give an undertaking, in writing, before the concerned Executive Engineer, Electricity Division that she will have no objection if power supply to the Tube Well of Mr. Chandan Singh S/o Ved Singh is restored from the same transformer from which petitioner is supplied electricity.

Mr. N.S. Pundir, learned counsel for the Uttarakhand Power Corporation Ltd. assures the Court that subject to petitioner giving such undertaking, electricity connection of the petitioner would be restored as early as possible, but, not later than two weeks from today. He further assures the Court that power supply would also be restored to Mr. Chandan Singh S/o Ved Singh within the same time from the same feeder, provided he also gives an undertaking that he will not object against restoration of petitioner's electricity connection.

Petitioner is directed to furnish, in writing, the aforesaid undertaking within a week. Mr. Chandan Singh S/o Ved Singh shall also furnish, in writing, the aforesaid undertaking within a week. The concerned Executive Engineer, Electricity Division shall inform, in writing, to Mr. Chandan Singh S/o Ved Singh about this order within three days from today.

With the aforesaid observation, writ petition is disposed of."

4. A perusal of the aforesaid order dated 28.09.2020 reveals that counsel appearing for respondent no. 4, petitioner in Writ Petition (M/S) No. 1102 of 2020, had assured the Court that his client will give an undertaking in writing before the Executive Engineer concerned that she will have no objection, if power supply to the tube-well of Chandan Singh (petitioner herein) is restored from the same transformer, through which she is supplied electricity.

5. Pursuant to the order passed in Writ Petition (M/S) No. 1102 of 2020, electricity connection to respondent no. 4 has been restored, in view of undertaking given by her in terms of order of this Court.

6. Mr. N.S. Pundir, learned counsel for respondent nos. 2 & 3 has informed the Court that his client had installed a electricity pole adjacent to the public path for restoring electricity connection to petitioner's tube-well, however, respondent no. 4 had damaged the electricity pole by saying that the electricity line would damage her fruit bearing trees (*jamun trees*). He further submits that in this regard, an F.I.R. has been lodged against respondent no. 4 for causing damage to the property of Uttarakhand Power Corporation Ltd. He further submits that the Joint Magistrate, Roorkee vide order dated 02.03.2021 has permitted Executive Engineer, Electricity Distribution Division, Ramnagar, Roorkee to lop the branches of the trees, which may touch the electricity line; but, despite the said order, respondent no. 4 is not permitting restoration of electricity connection to the tube-well of the petitioner.

7. During the course of arguments, on 19.05.2021, petitioner's counsel had submitted that he has no objection if insulated wire is used for restoring petitioner's electricity connection, provided respondent no. 4 agrees to bear 50% of the cost of such insulated wires, which are more expensive.

8. On 21.05.2021, learned counsel appearing for Uttarakhand Power Corporation Ltd. had apprised

the Court that cost of insulated wire for restoring electricity connection to the petitioner would be ₹ 62,518/-.

9. Mr. S.K. Mandal, learned counsel appearing for respondent no 4 had sought time to seek instructions from his client, as to whether she is willing to bear 50% of the cost of insulated wire. He has apprised the Court that his client is not willing to contribute 50% of the cost of insulated wire used in restoring electricity connection of the petitioner.

10. Such conduct of respondent no.4 cannot be appreciated. Her electricity connection was restored in terms of order of this Court passed on 28.09.2020 and her counsel had assured the Court that respondent no. 4 will have no objection, if power supply to petitioner's tube-well is restored from the same transformer, from which respondent no. 4 would be supplied electricity.

11. Mr. N.S. Pundir, learned counsel for respondent nos. 2 & 3 has informed the Court that respondent no. 4 had given an undertaking before Executive Engineer in terms of order of this Court, that she will have no objection in restoration of electricity connection of the petitioner.

12. In such view of the matter, it is not now open to respondent no. 4 to raise objection against restoration of electricity connection of the petitioner. Even otherwise also, electricity has become a necessity now-a-days and no one can be permitted to block electricity supply to his neighbours.

13. Accordingly, the writ petition is allowed and Executive Engineer, Electricity Distribution Division, Ramnagar, Roorkee is directed to restore electricity connection to the tube-well of the petitioner, as early as possible; but, not later than ten days from today.

14. The Joint Magistrate, Roorkee or any officer authorized by her not below the rank of Tehsildar, shall remain present on the spot along with adequate police force to ensure that no disturbance is caused while restoring electricity connection to the tube-well of the petitioner.

(MANOJ KUMAR TIWARI, J.)

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