

SURESH CHANDRA SHARMA

A

v.

CHAIRMAN, UPSEB AND ORS.

JANUARY 13, 1998

[J.S. VERMA, CJI., S.C. AGRAWAL AND S.P. BHARUCHA, JJ.]

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*Electricity :*

*Electricity—Theft by consumers—Writ petition in public interest—Appointment of High Power Committee investigate into areas enumerated in the order—Committee also to recommend reparatory measures and submit its report within six months—Public Interest Litigation—Constitution of India—Article 32.*

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ORIGINAL JURISDICTION : Writ Petition (C) No. 79 of 1997.

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(Under Article 32 of the Constitution of India.)

Gopal Subramaniam, (AC), R.D. Upadhyay, Madan Sharma and K.R. Ajit M. Singh, the Petitioner.

N.M. Ghatate, Pradeep Misra, Ms. Niti Dixit, T. Mahipal and R.B. Mishra for the Respondents.

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The following Order of the Court was delivered :

This present Public Interest Petition contains five areas which need to be investigated by a High Powered Committee:-

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1. Large scale theft of electricity by consumers of all categories (in particular, HV1 and HV2) with or without connivance of officials of the Electricity Board and ways and means to date it (together with extent of responsibility in cases of theft where no connivance is proved.)

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2. An instrumentation system for metering supply of electricity with appropriate checks and balances through computerised software so that theft of the electricity is minimised and proper recordings are always available.

3. Energy Auditing and, in particular, proper systems of Auditing and

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A metering electricity which is generated and supplied throughout the stage irrespective of the sector of area to which it is supplied.

4. Political and high level interference in the independent functioning of the Board and accountability.

B 5. Loss of coal wagons purported to be in transit of the Uttar Pradesh State Electricity Board (UPSEB) including ways and means to deter it - accounting and responsibility.

C After hearing learned counsel for the State, the UPSEB and the Amicus Curiae, we are satisfied that at this stage an order as indicated hereafter is required to be made. Accordingly, we order as under:

D We appoint a High Powered Committee consisting of the following persons for the purpose of dealing with the above areas and also with the allegations contained in the Writ Petition and the various supplementary affidavits.

1. Mr. S. Venkatnarayanan (IAS) retd. formerly Chairman, National Power Finance Corporation.
- E 2. Mr. Prakash Singh formerly Director General of Police (UP) and former Director General, BSF.
3. Mr. R.N.Srivastava, Chairman, Central Electricity Authority
- F 4. Dr. EAS Sarma (IAS) Secretry, Ministry of Power, Government of India.
5. An expert auditor to be nominated by the Comptroller and Auditor General of India.

G Mr. B.B. Sharma, formerly, Member-Secretary, UPSEB is requested to function as the Secretary of the High Powered Committee.

H We direct the High Powered Committee, as appointed above, to enquire into the allegations and to identify those who are responsible for such defaults. The Committee will also make recommendations in respect of monetary recoveries to be made due to stolen energy or otherwise. The Committee

likewise will also go into the question of loss of coal wagons and all enquiry reports which have been conducted in relation thereto would be made available to the High Powered Committee by the Central Government, State Government and the Public Sector Undertakings concerned. The Committee shall identify those responsible in the event of loss or unauthorised diversion of coal wagons proved. As far as designing of an instrumentation system as well as the energy auditing system is concerned the UPSEB and the Department of Power, State Government of UP are directed to supply all necessary and material papers to the Committee on request from the Committee.

The Government of UP, the UPSEB and the Central Government, the Central Electricity Authority and the various agencies of the State Government shall render all assistance as and when required by the Committee. The Committee shall exercise all powers required for proper discovery of relevant facts in relation to the above matters. The High Powered Committee would be at liberty to summon parties and record their statements and receive such evidence as is necessary for the purpose of completing its task.

Two officers, one of the rank of a DIG and the other of the rank of SP to be made available by the Director, Central Bureau of Investigation will assist the Committee. The Committee, whenever necessary, may consult additional experts for enabling it to make its recommendations.

The High Powered Committee will submit its interim report on the merits of the various allegations contained in the Writ Petition, affidavits and any other material.

The Committee will also recommend appropriated reparatory measures (monetary and otherwise) in respect of the each one of the instances.

The Union of India, the UPSEB, the Central Electricity Authority and the State of U.P. are directed to render all possible assistance in the functioning and working of the Committee. The State of U.P. and the UPSEB shall make available all necessary support and amenities for the functioning of the Committee. The Committee would be entitled to ask for and inspect whenever necessary relevant documents/information/apparatus. The expenses incurred by the Committee shall be borne by the UPSEB and the State of UP. The Committee shall submit its report within six months form today.

A In case of any difficulty in the functioning of the Committee, the Amicus Curiae shall be at liberty to approach the Court.

R.P.

Petition is still pending.