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**\* IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of decision: 16<sup>th</sup> July, 2019*

+ W.P.(C) 5066/2017

RAMAN SURI

..... Petitioner

Through: Ms. Sujatha Balachander, Adv.

versus

DELHI ELECTRICITY REGULATORY  
COMMISSION AND ORS

..... Respondents

Through: Ms. Pratima Gupta, SC for R-1/DERC

Mr. Gautam Narayan, ASC for GNCTD/R-3 with Ms. Shivani Vij and Mr. Dachhita Shahi, Advs.

Mr. Sudhir Nandrajog, Sr. Adv. with Mr. Nikhil Sharma and Mr. Aditya Gupta, Advs. for R-2/BRPL

Mr. Vinod Diwakar, CGSC with Mr. Anurag Singh and Ms. Sakshi Singh, Advs. for R-4

**CORAM:-**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR JUSTICE C. HARI SHANKAR**

**J U D G M E N T**

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**16.07.2019**

**D.N.PATEL, CHIEF JUSTICE (ORAL)**

1. This public interest litigation (PIL) has been preferred with the following prayers:

*“(i) Direct Respondent No. 1 and 2 to take appropriate enforcement action to reduce electricity theft and consequently reduce Aggregate Technical & Commercial Losses;*

*(ii) Direct Respondent No. 1, 2 and 3 to take appropriate steps to consider the viability of the long term suggestions proposed in paragraph 47(b) of this Petition and apply them in a time bound manner; and*

*(iii) Direct Respondent No. 2 to set the target AT&C Loss targets for the year 2017-18 and the coming years.*

*(iv) any other suitable and equitable relief may kindly be granted in the larger interest of the public.”*

2. Having heard learned counsel for both sides and looking to the facts and circumstances of the case, it appears that the present petition has been preferred mainly to reduce the electricity theft and consequently to reduce Aggregate Technical and Commercial (ATC) losses.

3. Learned counsel for the petitioner has taken this Court to various annexures and the memo of petition, mentioning clearly that, there is a lot of aggregate technical and commercial losses. Data has also been pointed out before us about these losses and varieties of suggestions have also been pointed out by the petitioner as stated in para 47(a) at page no. 51 of memo of this writ petition.

4. It has been submitted that there is a dire need of establishment of a separate police station for prevention of theft of electricity, as

other states have already experimented of establishment of a separate police station and, therefore, at Delhi also separate police station may be established.

5. We have heard learned counsel for Respondent No.3 at length, who has submitted that as many as four affidavits have been filed by the respondent No.3 so far. The first is dated 30<sup>th</sup> September, 2017, wherein it has been pointed out that establishment of the police station cannot reduce the theft, neither can it change the mindset of the persons who are committing theft of electricity, what is required to be checked is the proper investigation.

6. It is submitted by learned counsel for Respondent No.3 that District Investigation Unit (DIU) of the concerned district is specialised unit which can investigate electricity theft in detail.

7. It has also been pointed out by the counsel for Respondent No.3 that for the period running from 1<sup>st</sup> January, 2017 to 30<sup>th</sup> September, 2017, the total number of cases of the theft of electricity registered are 2097. As many as 461 persons have been arrested. Nonetheless, it is submitted by Respondent No.3 that a committee constituted by the Respondent No.3 has given various suggestions which are enumerated in affidavit in reply dated 17<sup>th</sup> July, 2018 filed by the Respondent No.3 and they will implement the suggestions of the committee as enumerated in the affidavit reply which are at page 523 of the paper book.

**8.** Counsel appearing for Respondent No. 3 has further submitted that, at this stage, they are not establishing any separate police stations but this decision is not permanent in nature. Even in future, if need arises, immediate such steps shall be taken by the Respondent No.3, looking to the experiments done in various states. Moreover, this decision is also a policy decision which would be taken by the high-ranking administrative officer of the State after due deliberations.

**9.** We have also heard learned counsel appearing for Respondent No. 2 who has submitted that initially there was a loss of electricity by 47 % which has now been reduced to approximately 11%. Out of which, 8% is a genuine technical loss. Thus, approximately 3 to 4% is the loss of electricity because of theft.

**10.** Learned Senior counsel appearing for Respondent No.2 has further submitted that Respondent No.2 is ready to cooperate for establishment of a separate police station and in future if need arises they will think upon even contributing funds from Corporate Social Responsibility Fund (CSR) for the said purpose.

**11.** Learned counsel appearing for the remaining respondents submit that they are adopting the arguments advanced by learned counsels for Respondent Nos. 1 to 3.

**12.** Having heard the learned counsels for both sides and looking into the facts and circumstances of the case, we see no reason to issue any writ much less a writ of mandamus for the establishment of a

separate police station for the theft of electricity etc. It is a policy decision to be taken by the Respondent No.3. Even we cannot replace a better policy than the existing one.

**13.** In some States, like Maharashtra, Gujarat, Rajasthan, Orissa and Uttar Pradesh, which are pointed out by the learned counsel for the petitioner, the experiment of establishment of separate police stations for electricity theft has been done by the respective states keeping in mind its requirement in their States. If this experiment is found to be a successful one and helpful to the public at large in the above-mentioned States, the said experiment can also be implemented over here.

**14.** Much has been stated by the counsel for the petitioner about aggregate technical and commercial losses caused to the Respondent No.2. It appears that Respondent No. 2 is quite capable of coming to the court with specific instances in case of theft of electricity, being owner of the electricity – supply company. It is stated by the Respondent No. 3 that more than 2000 cases have been registered during the period as stated in the affidavit from 1<sup>st</sup> January, 2017 to 30<sup>th</sup> September, 2017. 461 persons have also been arrested by the Delhi Police.

**15.** Thus, it cannot be said that respondents are lethargic enough to allow the theft of electricity easily. Their senses are not much required to be awakened by the order of this Court.

16. Moreover, by establishment of the separate police stations, theft of electricity cannot be completely stopped. What is more required is the separate police task for this purpose which is already in existence as stated by learned counsel appearing for the Respondent No. 3 which is known as the District Investigation Unit (DIU). This DIU in the concerned district can be established by the respondents. Counsel for Respondent No. 3 has no objection for such type of separate unit is being established.

17. The suggestions pointed out by the committee constituted by respondents, which are enumerated in affidavit-III, dated 17<sup>th</sup> July, 2018, filed by Respondent No. 3, which are at page 523, read as under:

*“4.1 The enforcement of Electricity Act and the raids to detect electricity theft always involve some amount of possibility of Law and Order problems. Therefore, local police is best suited to handle the situation and adequately deter the theft of electricity by taking action against the perpetrators of electricity theft.*

*4.2 A team Under Inspector (ATO) of the Police Station along with concerned Division Officer & Beat Officers can be constituted to conduct raids along with the staff of Discom to detect, curb, curtail, control and intervene and efficiently prevent the menace of electricity theft in the area.*

*4.3 District Investigation Unit of the district may be assigned the task of monitoring of investigation of case*

*registered under Electricity Act of the entire district to ensure the disposal of such cases in a time bound manner.*

*4.4 If any offence of electricity theft comes to the knowledge of electricity companies, they may seek assistance of local police and the same will be provided to them.*

*4.5 The suggestion regarding setting of separate police station to only deal with the cases of electricity theft has been examined but the same has not been found feasible owing to the operative and administrative reasons.*

*4.6 A Coordination Committee may be formed consisting of ACP/DIU of District and Nodal Officers of Electricity companies (i.e. DERC, BSES etc.). The committee may meet regularly to monitor the electricity theft cases”*

**18.** These suggestions shall be implemented by Respondent No.3 as early as possible and practicable.

**19.** We also direct the concerned authorities to keep in mind the suggestions already given by this public spirited petitioner who is much worrying about the goods of other persons which are being stolen.

**20.** The owner of the goods is Respondent No.2 but the petition is not filed by Respondent No.2. We are not much going into the detail of the *locus standi* of the petitioner. Suffice it to say that Respondent

No.2 will keep in mind the suggestions which are pointed out by the petitioner at paragraph no. 47(a), which read as thus:

***“a) Short Term***

*i. Police authorities could form special squads so as to detect and prevent electricity theft.*

*ii. Immediate prohibition on settlement of electricity theft cases at heavily discounted rates. In this regard, it is submitted that guidelines for providing discount, if any, in settling cases for non-payment of bills should be made by the Respondent No. 2 and the provisions of section 135 and section 152 of the Act with regard to penalties and compounding procedure be strictly followed. There ought to be no discount on the principal amount of electricity dues.*

*iii. Application of naming and shaming techniques - in the website of Discoms as well as by way of posters/fliers/loud speaker announcements in respective colonies to dissuade thievery. The same is being considered by Maharashtra Government as has been reported by Press Trust of India in their 26 April article (available at <http://www.ptinews.com/news/8646693> Maha-govt-mulls-making-public-names-of electricity-thieves. last visited on 24 May 2017). A copy of the same has been annexed herein as Annexure - FT.*

*iv. Respondent No. 2 could carry out immediate inspection of areas coming under its supply license to identify electricity theft and stop the same by way of*

*confiscation of material being used to steal electricity and imposition of fine.*

*v. Introduction of heavy fines on per offence, as well as percentage basis to dissuade offenders.*

*vi. Provide electricity connections to even those households which are in unauthorized colonies since these people are left with no option but to steal electricity if they are not provided formal connections. But as stated above, the cost of infrastructure for electrifying these colonies to be borne by the people residing in such colonies and the general citizens of Delhi should not be burdened with such costs.”*

**21.** With these observations, this writ petition is hereby disposed of.

**CHIEF JUSTICE**

**C. HARI SHANKAR, J.**

**JULY 16, 2019**

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