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

+ **W.P.(C) 333/2019**

SARTHAK CHATURVEDI

..... Petitioner

Through: None.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr. Gaurang Kanth, CGSC for R-1.
Mr. Anil Grover, SPP, CBI with
Mr. Shivesh P. Singh & Ms. Noopur
Singhal, Advs. for CBI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER
08.07.2019

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1. When the matter is called out, nobody appears for the petitioner.
2. We have heard the learned counsels appearing for the respondents No.1 and 2.
3. Having heard the learned counsels for the respondents No.1 and 2 and looking to the facts and circumstances of the case, it appears that this petitioner is in search of comprehensive guidelines regarding tracing, tapping and surveillance of phone calls, along with preparation of stocks and accountability of officials as well as for constitution of the Special Investigating Team to investigate the abuse/misuse of powers by some public servants of CBI.

4. Looking to the facts and circumstances of the case, it appears that as per the Indian Telegraph Act, 1885, especially Section 5(2), there are enough guidelines given for the subject matter for which this writ petition has been preferred. Indian Telegraph Rules, 1951 have also provided enough guidelines, especially by Rule 419A, which is incorporated in Indian Telegraph (Amendment) Rules, 2007, whereby Review Committee has also been constituted.

5. Looking to the counter affidavit filed by the respondent No.1, paragraph Nos.7 to 11 and 14 thereof read as under:

“7. That the mechanism of telephone interception is carried out in accordance with Section 5 (2) of the Indian Telegraph Act, 1885 (hereinafter referred to as "the IT Act") read with the Indian Telegraph Rules, 1951 (amended vide Indian Telegraph Amendment Rules 1999) and the Rules made pursuant to the Indian Telegraph (Amendment) Rules 2007. The interception by the Law Enforcement Agencies is carried out in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or public order or preventing incitement to the commission of an offence as defined in Section 5(2) of the Indian Telegraph Act.

*8. That, in furtherance of the judgment of the Hon'ble Supreme Court in People's Union for Civil Liberties (PUCL) V. Union of India [1997(1) SCC 301], the Respondent No.1 had incorporated Rule 419A in the Telegraph (Amendment) Rules, 2007. Hence, the guidelines and safeguards indicated by the Petitioner are already in existence. Copy of the said Amendment vide Gazette Notification No. G.S.R. 193(E) is annexed as **ANNEXURE-R1**.*

9. That, it is further submitted that Rule 419A of Indian Telegraph (Amendment) Rules 2007 adequately provides for constitution of a Review Committee by the Central Government and the State Government, as the case may be, to review the directions for

interceptions. The Review Committee constituted by the Central Government shall consist of Cabinet Secretary as Chairman, Secretary to the Government of India (In charge of Legal Affairs) Secretary to the Government of India (Department of Telecommunications) as members and the Review Committee constituted by the State Government shall consist of Chief Secretary as Chairman, Secretary Law/ Legal Remembrancer and Secretary to the State Government (other than the Home Secretary) as members. The Rule 419A also provides for mandatory forwarding of interception order to the concerned Review Committee.

10. That the Review Committee within a period of sixty days from the issue of the directions shall suo motu make necessary enquiries and investigations and record its findings whether the directions issued under sub-rule (1) of Rule 419A are in accordance with the provisions of Section 5(2) of the Indian Telegraph Act. When the Review Committee is of the opinion that the directions are not in accordance with the provisions referred to above, it may set aside the directions and order for destruction of the copies of the intercepted message or class of messages.

11. That it is pertinent to mention that the officer authorized to intercept any message or class of messages shall maintain proper records, mentioning therein, the intercepted messages or class of messages. the particulars of persons whose message has been intercepted, the name and other particulars of the officer or the authority to whom the intercepted message or class of messages made and the modes or the method by which such copies are made, the date of destruction of the copies and the duration within which the directions remain in force.

*14. That, it is further submitted that the requirement of giving justification with each proposal for interception has already been incorporated in the Standard Operating Procedure (SOP) issued by Ministry of Home Affairs in May 2011 and the concerned law enforcement/security agencies have been sensitized from time to time to follow these guidelines. Copy of the said SOP issued by MHA in May, 2011 is hereby annexed as **ANNEXURE-R2.**”*

6. Thus, Standard Operating Procedure has also been pointed out by the respondent No.1 which is in existence for tracing, tapping and surveillance of the phone calls. Even Review Committee is also constituted which is working for the aforesaid purposes.

7. In view of the guidelines already in existence and the provisions of the Act, 1885 and the Rules, 1951, we see no reason to give further guidance to the respondents to draft better policy for tracing, tapping and surveillance of the phone calls. Simultaneously, we see no reason to constitute a Special Investigating Team for abuse or misuse of the powers by the public servants of the CBI.

8. Moreover, looking to the counter affidavit filed by respondent No.2, it appears that the specific instances enumerated in the memo of the writ petition about the tracing, tapping and surveillance of the phone calls were done in accordance with law and the procedure and the permission by the high-ranking administrative officers, which is referred to in the counter affidavit filed by the respondent No.2.

9. Hence, we see no reason to take further action for constituting Special Investigating Team. Accordingly, this writ petition is hereby dismissed.

CHIEF JUSTICE

C. HARI SHANKAR, J

JULY 08, 2019

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