

Court No. - 47

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 2349 of 2022

Petitioner :- In Re Disruption Of Power Supply In Prayagraj

Respondent :- State Of U.P. Through Additional Chief Secretary Power U.P. Government And Others

Counsel for Petitioner :- Suo Moto, Gaurav Bishan, R.K.

Shahi, R.P.S. Chauhan, Ravindra Kumar Tripathi, Tripurari Pal

Counsel for Respondent :- C.S.C., Krishna Agarawal

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Vinod Diwakar, J.

Instant PIL was entertained by this court upon being apprised about disruption of power supply in Prayagraj, on account of strike by the employees of State Power/Electricity Units. Cognizance was also taken with regard to similar disruption in other districts of the State, later. Directions have been issued in the matter from time to time. It would be apposite to refer to the following orders passed in the matter on 06.12.2022:-

"Taking notice of disruption in supply of electricity in some areas of the city of Prayagraj, these proceedings were drawn suo moto to ensure maintenance of power supply. In connection therewith, an order was passed on 03.12.2022 requiring the presence of Additional Chief Power Secretary, Government of U.P. in Court. On being apprised by the Additional Chief Power Secretary that in a meeting with the representatives of the Employees' Union of the various Generation, Transmission and Distribution Companies certain issues had been resolved and the representatives of the employees have agreed to defer the strike and join back to their duties immediately, the matter was adjourned to December, 06, 2022 with a specific observation that if the power supply is still disrupted in any other city of the State and has not yet been restored, the same shall be restored in the minimum possible time.

Today, when this matter was taken up, Sri Manish Goel, learned Additional Advocate General appearing for the State, apprised us of certain decisions taken in the meeting held on 03.12.2022 between Vidyut Karmchari Sanyukt Sangharsh Samiti, U.P., a body representing the employees of the Power Department including Power Corporation, and the Power Minister as well as

other high ranking officers of the State.

The minutes of the meeting and the decisions taken therein have been placed before us.

From the minutes produced, it appears that consensus has been arrived on 14 points and, as a result whereof, the Employees' Union has decided to defer the strike for a period of fifteen days. It appears from the minutes of the meeting dated 03.12.2022 that on their request the department has taken a decision to withdraw show cause notices and orders relating to suspension, removal from service and other coercive disciplinary measures which it had adopted against the striking employees.

The aforesaid minutes of the meeting gives us an impression that the employees of the power department are arm-twisting the Department having little regard that disruption of essential services is a very serious issue and is not to be tolerated. The situation therefore needs to be dealt with in a firm manner.

In such circumstances, we deem it appropriate to issue notice to the representatives of Employees' Union so that whenever the matter is listed next, they are given opportunity of being heard.

At this stage, Sri Manish Goel has informed us that the representative body of the Employees' Union, which is currently interacting with the administration, is "Vidyut Karmchari Sanyukt Sangharsh Samiti having its office at 41/557, Dr. Tufail Ahamad Marg, Lohiya Mazdoor Bhawan, Narhi, Lucknow".

In view of the above, we deem it appropriate to direct that notice of these proceedings be served upon the aforesaid Union through its General Secretary. The service of notice shall be effected through the Chief Judicial Magistrate, Lucknow within a week from today.

List this matter again on 16.12.2022. It is expected that the Power Department shall ensure that the power supply is not disrupted and if it is disrupted in any manner, then strict action is taken.

Let this order be communicated to the Chief Judicial Magistrate, Lucknow by the Registrar (Compliance) today itself."

Office report shows that notices upon the Sanyukt Sangharsh Samiti has been served through the Chief Judicial Magistrate,

Lucknow, but none has entered appearance on their behalf, in this petition, till now.

The matter is listed before us today upon a mention made before the Hon'ble Senior Judge on an application filed by Sri Vibhu Rai, Advocate, who submits that the order passed by this court on 06.12.2022 has been violated and that the direction issued by this court on 06.12.2022 for power supply not to be disrupted has been brazenly defied.

Alongwith the application filed today, a resolution of the Vidyut Karmachari Sanyukt Sangharsh Samiti, U.P. dated 16th March, 2023 is annexed, as per which 27 lac electricity workers in the State have gone on 72 hours strike. Protests are planned throughout the State and if any electricity worker is arrested then the protest/strike is proposed to be made indefinite. Various demands of workers are highlighted. Office bearers of the Sangarsh Samiti have also addressed the gathering of electricity workers. The press note issued by the Sangarsh Samiti on 16th March, 2023 shows that the protests shall continue unless demands of the employees are met. The strike has commenced w.e.f. 10:00 p.m. on 16.03.2023. Copies of newspaper report have also been annexed to show that even in the Electricity Sub-Station which caters to the High Court Premises also, there are no employees available and it is the Magistrate and police personnel who are guarding the Sub-Station and managing the supply of electricity. The newspaper report also contains photographs of Mayohal Sub-Station near Public Service Commission office, wherein also none of the employees are available.

Learned counsel submits that the Board Examinations are going on in almost all districts of the State and the strike call by the

Employees' Union, contrary to the directions issued in the present PIL not only violates the orders passed in the present petition but has the effect of virtually obstructing all spheres of activity in the State of Uttar Pradesh including the working of courts. Learned counsel submits that in the event the Employees' Association had some grievance left, they could have approached this court in terms of the order passed previously and raise their grievance but their action in going on strike at the cost of grave public inconvenience cannot be countenanced.

It is also urged that on account of the strike call the generation of power in Anpara and Obra units of Thermal Power Corporation has also been severely curtailed. The employees of the Electricity Department are also not available in the State Load Dispatch Centre, which controls the power grid. It is urged that crisis of unmanageable proportions has occasioned on account of irresponsible act of the employees, who have acted contrary to the orders passed by this court.

Sri Manish Goyal, learned Additional Advocate General for the State submits that the State is making alternative arrangements by requisitioning staff from NTPC, National Grid Corporation and other Central bodies. He further points out that action under the Essential Services Maintenance Act (ESMA) has also been initiated against the guilty employees/officials.

From what has been placed before us, a serious situation is shown to have arisen which requires immediate attention. Since the issue is otherwise subjudice before this court, we are not inclined to endorse the action of employees in going on State wide strike, instead of availing the remedy of highlighting their grievance in the present petition. Even if there is substance in the demand

raised by the workers, yet, the entire State cannot be put to severe constraints by jeopardizing overwhelming public interest. Such act of workers violates the direction of this court for not disrupting power supply. Even national interest is compromised on account of reduction in the generation of power in different power generating units of the State. Thus, Prima facie disobedience of this court's order dated 06.12.2022 is indicated.

Since the Employees' Association has not entered appearance despite the previous orders passed by this Court and service of notice upon it, we are left with no option but to issue notices to the Employees' Association and its office bearers for initiation of contempt proceedings against them.

Let notices be issued to Sri Shailendra Dubey, Organizer of Vidyut Karmachari Sanyukt Sangarsh Samiti, U.P. as well as the office bearers named in the press release dated 16th March, 2023 namely, Sri Rajeev Singh, Sri Jitendra Singh Gurjar, Sri Jai Prakash, Sri G.V. Patel, Sri Girish Pandey, Sri Sadaruddin Rana, Sri Rajendra Ghildiyal, Sri Suhel Abid, Sri Mahendra Rai, Sri Chandrabhushan Upadhyay, Sri Shashikant Srivastava, Sri Manish Mishra, Sri P.K. Dixit, Mohd. Waseem, Sri Chhote Lal Dixit, Sri Yogendra Kumar, Sri Ram Charan Singh, Sri Pavan Srivastava, Sri Maya Shanker Tiwari, Sri Vishwambher Singh, Sri Ram Sahare Verma, Sri Shambhu Ratna Dixit, Sri P.S. Bajpayee, Sri G.P. Singh, Sri Rafeeq Ahmad, Mohd. Iliyas, Sri R.K. Singh and Sri Devendra Pandey through the Sangarsh Samiti who have actively participated in convening of the strike call.

Considering the urgency involved in the matter,ailable warrants are issued to the aforesaid office bearers of the Union by the Chief Judicial Magistrate, Lucknow requiring their presence before this

Court at 10:00 a.m. on 20th March, 2023 through the Vidyut Karmchari Sanyukt Sangharsh Samiti having its office at 41/557, Dr. Tufail Ahamad Marg, Lohiya Mazdoor Bhawan, Narhi, Lucknow.

The State authorities shall also ensure that appropriate action as may be permissible in law be taken against the erring officials/employees so as to ensure compliance of the previous orders passed by this court on 06.12.2022, and report compliance of the action taken in the matter by then. An affidavit of the Additional Chief Secretary of the Department concerned would be placed on record by then.

List on Monday i.e. 20.03.2023 at 10:00 a.m. before the appropriate court.

Order Date :- 17.3.2023/Shafique