
(1995) 12 AHC CK 0055

In the Allahabad High Court

Case No : Civil Miscellaneous W.P. No. 33443 of 1995

Dharam Veer Singh and Ors.

APPELLANT

Vs

U.P.S.E.B., Lucknow & Ors.

RESPONDENT

Date of Decision : 14-12-1995

Acts Referred:

Electricity (Supply) Act, 1948 — Section 79, 79A

Citation : (1995) 12 AHC CK 0055

Hon'ble Judges : R.H.Zaidi, J

Final Decision : Disposed Of

Judgement

R.H. Zaidia, J.—Challenging the validity of the order dated 1.11.1995 passed by respondent No. 2, Additional Secretary, U.P. State Electricity Board, Lucknow Civil Misc. Writ Petition No. 33018 of 1995, Mahendra Singh Tyagi and others v. U.P. State Electricity Board, Lucknow through its Secretary and others was filed in this Court on 17.11.1995 this Court was pleased to pass following orders:

"Issue notice.

Shri Ranjeet Saxena, Counsel appearing for the respondents prays for, and is granted, a week's time to file counter affidavit. Rejoinder affidavit may be filed within another two weeks. The application for interim relief shall be listed for orders after expiry of the aforesaid period.

Meanwhile, having heard the counsel for the petitioner and having perused the order passed by Special Appeal Bench of this Court (Annexure 2 to the Writ Petition) and the order dated 1.11.1995 (Annexure3), I am prima facie satisfied that the direction as to notice comprehended by Section 4(g) of the U.P. Industrial Disputes Act, 1947 has not been complied with by the respondents. Accordingly, it is provided herein that the policy decision contained in Annexure 3 to the writ petition, shall not be implemented except after observing the requirements of Section 4(g) of the U.P. Industrial Disputes Act as directed by Special Appeal Bench of this Court.

Sd/

S.R. Singh. J."

2. Subsequently, the validity of the said order dated 1.11.1995 was challenged by a number of persons/employees of U.P. State Electricity Board, Lucknow. Some of the said petitions came up for hearing before this Court on 22.11.1995. On the request made by the learned counsel for the petitioners the said writ petitions were directed to be listed along with the record of writ petition No. 33018 of 1985 on 23.11.1995.

3. On 23.11.1995 arguments were heard at some length. Since the grievance of the learned counsel for the respondents was that, the order dated 17.11.1995, referred to above, was passed without affording him an opportunity to produce the relevant regulations i.e. Prashaskiya Karamchari Varg Lekha Viniyamavali, 1994, before this Court, on his request, the cases were directed to be put up on 24.11.1995 as, in the meanwhile, he wanted to file the counter affidavit.

4. The questions under consideration were as to whether the said regulations were notified and were placed before the State Legislature as required under Section 79 and Section 79A of the Electricity (Supply) Act before they were allegedly enforced by respondent No. 1.

5. On 24.11.1995 instead of filing the counter affidavit, short counter affidavit was filed on behalf of the respondents narrating the history of litigation between the parties and that aforesaid regulations were notified on 9.8.1994, and that writ petitions filed by the petitioner were, therefore, liable to be dismissed, but along with that the copy or regulation was not filed. This Court, therefore, required the learned counsel for the respondents to file the Gazette notification whereby the said regulations were published or a photostat copy thereof, alongwith a supplementary counter affidavit.

6. On 27.11.1995, instead of filing the Gazette notification a photostat copy of the draft of the aforesaid regulation was filed along with the short supplementary again asserting that regulations were already notified. The case was thereafter, directed to be put up on 1.12.1995. On 1.12.1995 the learned counsel for the respondent has filed second short supplementary counter affidavit annexing therewith the copies of letters alleged to have been received by him through Fax. The case thereafter, heard on 1.12.1995.

7. After hearing learned counsel for the parties and from the material on record, it transpired and was evident that the alleged regulations were not notified and published in the official Gazette, therefore, there was no question of the enforcement of those regulations by respondents. The writ petition was admitted and the operation of the impugned order was also stayed.

8. Since the respondents have deliberately attempted to mislead this Court by filing false affidavits, documents too, prima fade, appear to have been forged by respondents who have also suppressed the material facts, therefore, on the

same date following order was passed :

"Put up this case Monday next for further hearing and consideration on the question as to whether notices for initiating contempt proceedings be issued against the respondents, their counsel and other persons who have filed affidavits in the present case and have attempted to mislead this Court, or not, as part heard,"

9. On 4.12.1995, I have heard learned counsel for the petitioner and learned counsel for the respondents. Learned counsel for the respondents has also filed an application annexing therewith a written arguments, which were not supported by any affidavit and were signed by Shri Ranjeet Saxena, Advocate. After hearing learned counsel for the parties order was reserved.

10. I have carefully perused the record of the case and considered the arguments made by the learned counsel for the parties. I am of the opinion that, prima facie, following persons appear to be guilty of criminal contempt and are liable to be prosecuted accordingly under the provisions of Contempt of Courts Act, 1971.

(1) Shri Virendra Pal Singh, Senior Personal Officer, U.P. State Electricity Board, 14, Ashk Marg, Shakti Bhawan, Lucknow :

(2) Shri Vinay Kumar Trivedi, I.L. A. U.P. State Electricity Board, 14 Ashok Marg, Shakti Bhawan, Lucknow; and

(3) Shri Nagendra Kaushik, Noter and Drafter, U.P. State Electricity Board, Agra.

11. The affidavits which these persons have sworn appears to have been drafted and filed by Shri Ranjeet Saxena, Advocate for U.P. State Electricity Board in this Court. In *In re, Sanjiva Dutta and others*, 95 (3) SCC 619 : 1995(2) JCLR 62 (SC), it has been ruled by the Hon"ble Supreme Court as under:

"The offence of Contempt of Court is committed not only by those, who author the ! offensive documents but also by those who file it in the Court."

12. In the present case, as stated above, the affidavits in question, prima facie, appear to be drafted and filed by Shri Ranjeet Saxena, Advocate in this Court, therefore, in the, circumstances, I am constrained to observe that he too cannot be separated from the liability of being prosecuted alongwith the above noted three persons for contempt of this Court.

13. In the light of the above facts, I charge Shri Virendra Pal Singh s/o Shri Nirmal Singh, Senior Personnel Officer, U.P. State Electricity Board, Lucknow as under :

(a) That you in the your counter affidavit dated 24.11.1995 deliberately and wilfully falsely stated in paragraph 12 of the said affidavit that U.P. Rajya Vidut Parichalkiya Karamchari Warg Seva Niyamavali, 1994 was framed and notified on 9.8.1995 which was wholly within the four corners of the judgment and the

Board's Regulation under Section 79 (c) of the Act which overrides all other laws for the time being in force as per U.P. Amendment by making above false statement in the affidavit. You are, prima facie, found guilty of deliberately suppressing correct fact from this Court that the alleged regulations were not placed before the State Legislature and that the same were not published in the official Gazette and you have thus also deliberately attempted to mislead and deceive this Court for obtaining favourable orders in favour of your employers and thus, you also caused unlawful obstruction in the clean and unpolluted flow of justice which amounts to interfere in the due course of judicial proceedings and also obstruction in the administration of Justice. You are thus, prima facie, guilty of committing criminal contempt which is punishable under Contempt of Courts Act, 1971.

I charge Shri Vinay Kumar Trivedi s/o Dr. N. P. Trivedi, I.L.A., U.P. State Electricity Board, Lucknow as under:

(a) That you in your short supplementary counter affidavit dated 27.11.1995 falsely stated that the aforesaid Niyamavali has already been framed and notified under Section 79 of the Electricity (Supply) Act, 1948. You have also filed the draft on the said Niyamavali claiming the same as copy of Niyamavali and that the said Niyamavali has now come into force only w.e.f. 1.11.1995 which was protected and was not liable to be challenged. You made the said false statements knowing them to be false deliberately with a view to obtain favourable orders for your employer by misleading and receiving this Court. Thus you also caused the unlawful obstruction in the clean and unpolluted flow of justice which amounts to interference in the due course of judicial proceedings and also obstruction in the administration of justice. You are thus, prima facie, guilty of committing criminal contempt which is punishable under Contempt of Courts Act, 1971.

I charge Shri Nagendra Kaushik s/o Shri R.C. Kaushik, Noter and Drafter, U.P. State Electricity Board, Agra as under :

(a) That you have deliberately and wilfully suppressed the material facts in your second short supplementary counter affidavit that the Viniyamavali in question was not published in the official Gazette and was not placed before the State Legislature. Thus, you also caused the unlawful obstruction in the clean and unpolluted flow of justice which amounts to interference in the due course of judicial proceedings and also obstruction in the administration of justice. You are thus, prima facie, guilty of committing criminal contempt which is punishable under Contempt of Courts Act, 1971.

I charge Shri Ranjeet Saxena, Advocate, High Court, Allahabad as under:

(a) That you in your capacity as advocate of U.P. State Electricity Board drafted/ settled affidavits of

(1) Shri Virendra Pal Singh, Senior Personnel Officer, U.P. State Electricity Board ,

14 Ashok Marg, Shakti Bhawan, Lucknow.

(2) Shri Vinay Kumar Trivedi, I.L.A, U.P. State Electricity Board, 14, Ashok Marg, Shakti Bhawan, Lucknow; and

(3) Shri Nagendra Kaushik, Noter and Drafter, U.P. State Electricity Board, Agra ;

Pairakar of U.P. State Electricity Board, being the employees and also filed those affidavits in the Court respectively on 24.11.1995, 27.11.1995 and 29.11.1995. The aforesaid affidavits filed by you contained false and wrong facts while correct material facts were deliberately suppressed.

It was falsely stated that Niyamavali in question had already been notified in accordance with law and, therefore, it could not be challenged by the petitioners. Fact is that no such notification was either placed before the State Legislature nor it was published in the official Gazette, therefore, it has not become operative as yet. By filing these false affidavits you attempted to mislead and deceive this Court and tried to obtain orders in favour of your clients, You are thus, prima facie, guilty committing criminal contempt which is punishable under the Contempt of Court? Act, 1971.

I, accordingly direct issue of notices to (1) Shri Virendra Pal Singh, Senior Personnel Officer, U.P. State Electricity Board, 14 Ashok Marg, Shakti Bhawan, Lucknow, (2) Shri Vinay Kumar Trivedi, I.L.A., U.P. State Electricity Board, 14 Ashok Marg, Shakti Bhawan, Lucknow, (3) Shri Nagendra Kaushik, Noter and Drafter, U.P. State Electricity Board, Agra and (4) Shri Ranjeet Saxena, Advocate, High Court, Allahabad to appear in person in this Court on 24.1.1996 to show cause as to why they be not prosecuted and punished for committing criminal contempt on the charge disclosed above against their respective names.

Decided accordingly.