

(2002) 10 DEL CK 0001

In the Delhi High Court

Case No : S 2267/98

N.T.P.C.

APPELLANT

Vs

Bhartiya Mazdoor Sangh and Others

RESPONDENT

Date of Decision : 04-10-2002

Acts Referred:

Constitution of India, 1950 — Article 19

Citation : (2002) 10 DEL CK 0001

Hon'ble Judges : Shamik Mukherjee, J

Bench : Single Bench

Advocate : S.K. Taneja and Rajesh Gupta, for the Appellant; Nemo, for the Respondent

Judgement

S. Mukerjee, J.—On account of unlawful activities such as holding of violent demonstrations, shouting of offensive slogans, collecting in numbers in and around the office premises of the Corporation, and by alleging that defendants have adopted a course of criminal trespass, violence, intimidation, coercion and threats to the plaintiff, the present suit for permanent injunction has been filed by the plaintiff Corporation, praying with the following prayers, restraining the defendants No. 1 to 3, their members, servants, etc. from:-

a) Staging demonstrations, dharnas, shouting slogans, use of abusive language etc. against the plaintiff/management within a radius of 200 metres from the gate of the plaintiff/Corporation's office at NTPC Bhavan, Scope Complex, Lodhi Road, New Delhi-3, and E.O.C., Sector 24, Noida, Distt. Gautam Budh Nagar.

b) obstructing, intimidating or preventing the willing employees, officers of the plaintiff/Corporation from having free and unobstructed, peaceful ingress and egress to the office premises of the plaintiff/Corporation located on the various floors of the said building;

c) preventing the officers and employees of the plaintiff/Corporation from carrying on their normal functions;

d) gheraoing the Chairman-cum-Managing Director and other Directors or any other officers or employees of the plaintiff/Corporation at their office or at their respective residence;

2. The following work places have been indicated for the purposes of the relief claimed in the present suit:

i) NTPC Bhavan, Scope Complex, Lodhi Road

ii) Engineering Office of N.T.P.C. at NOIDA,

3. As per averments made in the plaint, the last such incident of which plaintiff is aggrieved took place on 28.8.1998 between 1.10 and 1.50 P.M., and the same has led to the institution of the present suit.

4. Some of the defendants have filed Written Statement, while others neither appeared nor filed any pleadings at all.

5. After granting considerable opportunity, vide order dated 1.8.2002 all the defendants were proceeded against ex-parte.

6. Ex-parte affidavit by way of evidence have been filed and the documents have been duly marked as exhibits.

7. The plaintiff has duly established, by unrebutted evidence, and the pleadings preceding the same, that the rights of the plaintiff have been violated on account of the illegal actions of the defendants.

8. I need not to dilate in detail on the issues involved, since learned counsel for the plaintiff has drawn my attention to reported decision of learned Single Judge of this Court titled Wings Pharmaceuticals (Pvt.) Ltd. v. Pargatisheel Mazdoor Sangh, Delhi Pradesh and Ors. (2001 LLR 406 which is apt and fully applicable to the facts and circumstances of the present case.

9. In view of the above, I hold that the plaintiff has established a strong prima facie case and that balance of convenience also lies in favor of the plaintiff who is bound to further irreparable loss and injury, in case permanent injunction as prayed for is not granted.

10. The plaintiff is engaged in the activity of power generation, which make it a public utility service. To ensure its efficiency and smooth functioning, without any impediment by way of any of the activities of the defendants forming subject matter of the suit, and at the same time by limiting the rights of the defendants to the extent granted under Article 19 of the Constitution, I hold that the plaintiff has established its clear and unrebutted entitlement to the grant of permanent injunction in favor of the plaintiff and against the defendants restraining the defendants, their agents, members, servants, representatives from holding demonstrations, dharnas, blockage, gherao, shouting slogans, putting up loud-speakers, pasting any banners, causing hindrance in the egress and ingress of the material required for the purpose of the business of the plaintiff within a

radius of 100 meters at the above said places of the plaintiff.

11. The suit is decreed accordingly, but with no order as to costs.