

(1990) 08 PAT CK 0017

In the Patna High Court

Case No : C.W.J.C. No's. 1425, 1547, 1600 and 1833 of 1989 (R) and 122, 284, 447 and 570 of 1990 (R)

Ram Jiwan Poddar and Others

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 13-08-1990

Acts Referred:

Telegraph Act, 1885 — Section 7B

Citation : (1991) 1 BLJR 348

Hon'ble Judges : S. Roy, J; Dharmpal Sinha, J

Bench : Division Bench

Judgement

S. Roy, J.—The points involved in these writ applications are the same. They were, therefore, heard together and are being disposed of by this judgment.

2. The petitioners owns the telephone (sic) they did not make the local calls as mentioned in their bills the subject matter of these writ petitions, and the bills are incorrect. We may mention that the local calls includes the STD calls.

3. After receipt of the bills, the petitioners gave representation to the authorities in which they had stated that the bills were not correct. The respondents replied that after making necessary verification, it was found that the bills were correctly prepared. The petitioners in these applications have challenged the decision of the respondents.

4. In most of the applications, it has, inter alia, been stated that their telephones have been misused by the persons, not authorised to use the lines. In the Counter affidavit(s), it has been stated that there was no fault in the meter reading and recording of the units were correctly done.

5. On 20.4.1990, it was ordered that it is necessary to get the opinion f? the, Head of the Department, Tele-communication, Birla Institute of Technology at Mesra, Ranchi. In terms of the order of this Court, the Head of the Department, Telecommunications, Birla Institute of Technology Ranchi was present in court,

and he was requested to submit his report specifically with regard to the allegations that the telephones of the petitioner were misused in connivance with the personnel of the telephone department. The Head of the Department, Tele communication, BIT submitted his report, He was of the opinion that at the junction box, there was a possibility of misuse of the telephones, and that can be done only with the connivance of the personnel of the Tele-communication Department.

6. During the course of hearing of these writ petitions, it was submitted on behalf of the petitioners that in a similar situation, Gauhati High Court in *Santokh Singh v. Divisional Engineer Telephone* 1990 (1) C CC 514 noticed Posts and Telegraphs Manual, Swamy's Treatise on Telephone Rules, and the Circular No. 4-59/85-TR dated 9.4.1986, issued by the Government of India, Ministry of Tele-communication. It does not appear from the counter affidavit(s) filed on behalf of the respondents that while disposing of the representations filed by the petitioners, the authorities kept in view the P & T Manual, telephone rules and other relevant circulars of the Tele-communication Department noticed in *Santokh Singh* (supra). The Telephone Manual, Telephone Rules and Circulars have been issued by the Central Government to check misuse of the telephones/lines by unauthorised persons.

7. In view of these facts, we are of the opinion that the petitioners shall give representations to the Director, Tele-communication Department, Ranchi, whose territorial jurisdiction is whole of the South Bihar, with regard to their telephone bills. The Director shall dispose of their representations keeping in view the P & T Manual, Telephone Rules and other relevant circulars of the Tele-communication Department, some of which have been noticed in the judgment of the Gauhati High Court. The Director shall also take into consideration the report of the Head of the Department, Tele-communication, Birla Institute of Technology, Ranchi. Till their representations are disposed of, the telephone lines of the petitioners shall not be disconnected for non-payment of the bills in question.

8. We are not expressing any opinion whether the dispute raised by the petitioners, the subject matter of these writ applications, is covered by Section 7B of the Telegraph Act, 1885, and leaving the matter open.

The petitioners in those cases are permitted to add the Director, Telecommunication Department, as a respondent in which he is not a party.

9. These applications are disposed of with the aforesaid observations.