

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
I.A. NO.17, 23, 26, 29, 31, 76, 77, 80 AND 83-85
IN
WRIT PETITION (CIVIL) NO. 79 OF 1997

SURESH CHANDRA SHARMA

Petitioner(s)

VERSUS

CHAIRMAN, UPSEB & ORS.

Respondent(s)

(For directions and appeal against the order of the Registrar
and for direction/recall/modification of court's order dated
21.3.2007 and exemption from filing O.T. and office report)

Date: 13/05/2011 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE H.L. DATTU

Mr. Gopal Subramaniam, SG (AC)

Mr. Nikhil Nayyar, Adv. (AC)

For Petitioner(s)

Mr. Prashant Bhushan, Adv.
Mr. Pyoli, Adv.

For Respondent(s)

UPSEB

Mr. Mukul Rohatgi, Sr. Adv.
Mr. Shail Kumar Dwivedi, AAG
Mr. Pradeep Misra, Adv.
Mr. Suraj Singh, Adv.

Mr. Praveen Swarup, Adv

UOI

Mr. T.S. Doabia, Sr. Adv.
Ms. Sunita Sharma, Adv.
Mr. C.K. Sharma, Adv.
Ms. Sushma suri, Adv.
Mr. Arvind Kumar Sharma, Adv

Mr. Anil Kumar Jha, Adv

Ms. Binu Tamta, Adv

State of UP

Mr. Pramod Swarup, Sr. Adv.
Mr. Ameet Singh, Adv.
Ms. Pareena Swarup, Adv.
Ms. Alka Sinha, Adv.
Mr. Anuvrat Sharma, Adv

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Ms. Niranjana Singh, Adv

Ms. Sujata Kurdukar, Adv

Mr. R.D. Upadhyay, Adv

Mr. Sudhir Kulshreshtha, Adv

Mr. V.N. Raghupathy, Adv

Mr. B.P. Singh Dhakray, Adv.
Mr. Shakti Singh Dhakray, Adv.
Mr. Dharam Bir Raj Vohra, Adv.

UPON hearing counsel the Court made the following
O R D E R

I.A. No.83: By this Appeal under Order

XVII Rule 5 of Supreme Court Rules, 1966, the appellant prays for setting aside of the order passed by the learned Registrar on 8th May, 2007, declining to receive the application filed for recalling of the order dated 21st March, 2007 passed by this Court in Writ Petition (Civil) No. 79 of 1997. For the reasons stated in the application and in the absence of any resistance thereto, it is allowed. Order dated 21st March, 2007, disposing of the writ petition is recalled and the writ petition is revived for further hearing.

W.P.(CIVIL) NO. 79/1997

In furtherance of our order dated 11th May, 2011, learned Amicus Curiae and learned counsel

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appearing for the U.P. Power Corporation Limited submit that both the persons, whose names had been suggested for the constitution of a Committee, have given their consent for being part of the Committee. However, learned counsel appearing for the State of U.P. submits that insofar as the question of the validity/legality of the appointments of various officers in the Corporation is concerned, the State Government has serious objection on the issue being looked into by the said Committee. Learned counsel

prays that the State may be heard before any order in that behalf is made. Accordingly, for

the present, without going into the issue of appointments, with the consent of learned counsel for the parties and with the assistance of the learned Amicus Curiae, we direct as follows:

The State of U.P. shall constitute and notify a Committee headed by Justice Mukul Mudgal (Retd.), a former Chief Justice of the High Court of Punjab & Haryana and Shri H.L. Bajaj, former Chairman, Central Electricity Authority and former Member of the Appellate Tribunal for Electricity. The Committee shall examine the status of the cases relating to theft of electricity, as detailed below:

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(i) Cases referred to in Writ Petition and Supplementary Affidavit, but left over in Annexure 1 of learned Amicus Curiae's suggestions dated 22nd April, 2009;

(ii) Cases referred to in I.A. Nos.8 & 9 though examined by Bijli Adalat but no status report filed by U.P. Power Corporation Limited;

(iii) Cases referred to in I.A. Nos. 8 & 9 but no status report filed by U.P. Power Corporation Limited and also not examined by the Bijli Adalat;

(iv) Additional cases of theft of electricity/corruption referred to in I.A. Nos. 18, 29, 76, 80 & 83.

Additionally, the Committee shall also examine the validity and legality of the

transfers and postings of various officers, as mentioned in Annexure A-2 to the reply of the petitioner in I.A. No. 84 filed by the learned

Amicus Curiae. The Committee shall also look into the question as to whether the recommendations made by the Independent Committee, set up under the orders of this Court and on the basis whereof the writ petition had been disposed of, have been implemented by the State of U.P. or not.

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The Committee shall devise its own procedure in order to examine the afore-noted issues. The members of the Committee shall settle their terms of engagement in consultation with learned counsel representing the State and the Corporation. The Committee is authorized to seek assistance of any technical person or senior officer from any establishment/agency, if considered necessary, on such terms and conditions as it may deem fit and proper, bearing in mind the nature of the work assigned to it.

Learned counsel appearing for the Corporation has assured us that adequate infrastructure and other facilities, befitting the status of the members of the Committee, and as may be required by the Committee in order to discharge its functions effectively and efficiently shall be provided, without any delay. All the records as may be called for by the Committee shall be procured and made available to it by the Corporation, with the assistance of the State Government.

We request the Committee to submit its report as expeditiously as possible, preferably within six months from today.

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I.A. Nos. 84 and 85 stand disposed of in the above terms.

Call the matter for further orders immediately thereafter.

(VINOD LAKHINA)
Court Master

(KUSUM GULATI)
Court Master

(SIGNED ORDER IS PLACED ON THE FILE)
IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

I.A. NOS.17, 23, 26, 29, 31, 76, 77, 80 AND 83-85
IN
WRIT PETITION (CIVIL) NO. 79 OF 1997

SURESH CHANDRA SHARMA Petitioner(s)

VERSUS

CHAIRMAN, UPSEB & ORS. Respondent(s)

ORDER

I.A. No.83: By this Appeal under Order XVII Rule 5 of Supreme Court Rules, 1966, the appellant prays for setting aside of the order passed by the learned Registrar on 8th May, 2007, declining to receive the application filed for recalling of the order dated 21st March, 2007 passed by this Court in Writ Petition (Civil) No. 79 of 1997. For the reasons stated in the application and in the absence of any resistance

thereto, it is allowed. Order dated 21st March, 2007, disposing of the writ petition is recalled and the writ petition is revived for further hearing.

W.P.(CIVIL) NO. 79/1997

In furtherance of our order dated 11th May, 2011, learned Amicus Curiae and learned counsel appearing for the U.P. Power Corporation Limited submit that both the persons, whose names had

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been suggested for the constitution of a Committee, have given their consent for being part of the Committee. However, learned counsel

appearing for the State of U.P. submits that

insofar as the question of the validity/legality

of the appointments of various officers in the

Corporation is concerned, the State Government

has serious objection on the issue being looked

into by the said Committee. Learned counsel

prays that the State may be heard before any

order in that behalf is made. Accordingly, for

the present, without going into the issue of

appointments, with the consent of learned counsel

for the parties and with the assistance of the

learned Amicus Curiae, we direct as follows:

The State of U.P. shall constitute and

notify a Committee headed by Justice Mukul Mudgal

(Retd.), a former Chief Justice of the High Court

of Punjab & Haryana and Shri H.L. Bajaj, former

Chairman, Central Electricity Authority and

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status of the cases relating to theft of electricity, as detailed below:

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Additionally, the Committee shall also examine the validity and legality of the transfers and postings of various officers, as mentioned in Annexure A-2 to the reply of the petitioner in I.A. No. 84 filed by the learned Amicus Curiae. The Committee shall also look

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into the question as to whether the recommendations made by the Independent Committee, set up under the orders of this Court and on the basis whereof the writ petition had been disposed of, have been implemented by the State of U.P. or not.

The Committee shall devise its own procedure in order to examine the afore-noted issues. The members of the Committee shall settle their terms of engagement in consultation with learned counsel representing the State and the Corporation. The Committee is authorized to seek assistance of any technical person or senior officer from any establishment/agency, if considered necessary, on such terms and conditions as it may deem fit and proper, bearing in mind the nature of the work assigned to it.

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State Government.

We request the Committee to submit its report as expeditiously as possible, preferably within six months from today.

I.A. Nos. 84 and 85 stand disposed of in the above terms.

Call the matter for further orders immediately thereafter.

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(D.K. JAIN, J.)

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(H.L. DATTU, J.)

NEW DELHI
MAY 13, 2011