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W.P(C)No. 328 OF 1999

ITEM No.1

Court No. 7

SECTION PIL
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(Civil) No.328/1999

POWER CRISES IN N.C.T. OF DELHI

Petitioner (s)

VERSUS

U.O.I. & ORS

Respondent (s)

(With appln.for directions and permission to submit addl.documents and office report)

Date : 09/03/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE RUMA PAL
HON'BLE MR. JUSTICE P.VENKATARAMA REDDI

For Petitioner (s) Mr.Ranjit Kumar,Sr.Adv.(AC)

For Respondent (s) Mr. S.K. Dhingra,Adv.

For DVB Mr.Ashwani Kumar,Sr.Adv.
Mr.Jayant Nath,Adv.
Mr.B.C.Pandey,Adv.
Mr. Rakesh K. Sharma,Adv.

Ms. Kum Kum Sen,Adv.

Mr. P.B. Suresh,Adv.

Mr. R.K. Maheshwari,Adv.

Mr. D.S. Mahra,Adv.

Ms. Indra Sawhney,Adv.

Mr.Rakesh K.Khanna,Adv.
Ms.Rashmi Khanna,adv.
Mr.Shashank Shekhar,Adv.
Mr. Surya Kant,Adv.

For BSES Rajdhani:
& BSES Yamuna Mr.M.C.Bhandare,Sr.Adv.
Ms.Manali Singhal,Adv.
Ms. Meera Mathur,Adv.

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For UOI
Mr.SWA Qadri,Adv.
Mr.Prateek Jalan,Adv.
Mr.BVB Das,Adv.

for NDPL Ms.Vibha Dutta Makhija,Adv.
Mr.Anupam Verma,Adv.

Mr. Bharati Tyagi, Adv.

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

Pursuant to the directions of this Court and the Notification issued by the Central Government delegating powers under the Electricity Act, 2003 to the Government of N.C.T. of Delhi, the latter has issued a Notification on 8th March, 2004 appointing Assessing Officers for the purposes of Section 126 of the Electricity Act, 2003.

Our attention has been drawn by the learned Amicus Curiae to the provisions of Sections 127, 135 and 152 of the said Act which provide respectively (1) for appeals from an order of Assessing Officer to an Appellate Authority, (2) for an authorised officer to enter, inspect, search, seize, examine etc. under Section 135(2) in connection with the theft of electricity and (3) for an officer authorised for the purpose of compounding offences.

Under the provisions of Section 145 of the Electricity Act, 2003, Civil Courts have been debarred from entertaining suits or proceedings in respect of matters which an Assessing Officer referred to in Section 126 or an Appellate Authority referred to in Section 127 or an Adjudicating Officer appointed under the Act has to determine. It is, therefore, necessary to put in place the authorities under Sections 127, 135 and 152 so that the assessee is not left remediless.

The High Court has handed over a letter written by it on 5th March, 2004 to the Government of N.C.T. of Delhi nominating, as an interim measure, two officers who may be conferred powers under Section 153 of the Electricity Act, 2003 and also asking for five posts of judges to deal with the cases under the Act.

According to the affidavits filed by the three distributing companies, an anticipated number of over 5500 cases of theft and related offences may be instituted in the coming year. These are over and above the cases already pending in this regard. In the circumstances, the request of the High Court for the creation of further posts appears to be a reasonable one.

The Government of N.C.T. of Delhi is, therefore, directed;

- (i) to issue the appropriate Notification for the purposes of appointing the authorities under Sections 127, 135 and 152 of the Electricity Act, 2003;
- (ii) to take steps to create the necessary posts for dealing with the anticipated number of cases as requested by the High Court; and
- (iii) to place on record the Notification dated 8.3.2004 appointing Assessing Officers.

The High court will also file an affidavit placing on record the letter dated 5th March, 2004 written by it to the Secretary, Law and Justice, Government of N.C.T. of Delhi.

The matter is adjourned by three weeks.

(USHA BHARDWAJ)
P.S. TO REGISTRAR

(MADHU SAXENA)
COURT MASTER