

**North Delhi Power Ltd Vs. Delhi State Electricity Workers Union and ors.**

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**Court :** Delhi

**Decided On :** Feb-03-2014

**Judge :** G. S. Sistani

**Appellant :** North Delhi Power Ltd

**Respondent :** Delhi State Electricity Workers Union and ors.

**Judgement :**

\$~11 \* IN THE HIGH COURT OF DELHI AT NEW DELHI + CS(OS) 419/2012 %  
Judgment dated 03.02.2014 NORTH DELHI POWER LTD ..... Plaintiff Through:  
Mr.Manish Srivastava, Adv. for Mr.K.Dutta, Adv. versus DELHI STATE  
ELECTRICITY WORKERS UNION & ORS..Defendants Through: Mr.Salim  
Inamdar, Mr.Vedanta Varma and Mr.Vibhor Kush, Advs. CORAM: HON'BLE MR.  
JUSTICE G.S.SISTANI G.S.SISTANI, J (ORAL) 1. Plaintiff has filed the present  
suit for permanent and mandatory injunction seeking a declaration that e-mail  
dated 14.02.2012 issued by defendant No.2 on behalf of defendant No.1 purported  
to be sent under Section 22 of the Industrial Disputes Act as illegal and void ab  
initio. The decree for permanent injunction was also sought in favour of plaintiff  
and against defendant No.1 from going on strike in future and further restraining  
the defendants from demonstrating, picketing, obstructing and barricading or from  
causing obstruction and impediment in the ingress and egress of plaintiff at their  
offices. While issuing summons in the suit the following order, inter alia, was  
passed:- I.A.NO.3313/2012.

1. CS(OS)No.419-2012 This is an application filed by the plaintiff seeking Page 1 of 7 exemption from filing certified/original documents and legible copies of documents.
2. Exemption allowed, subject to plaintiffs filing certified/original documents, sought to be relied upon, within ten weeks from today. Let dim annexures be also replaced within ten weeks from today.
3. Application stands disposed of. I.A.NO.3312/2012.
4. This is an application filed by plaintiff seeking enlargement of time in filing the Court Fee.
5. Learned senior counsel for the plaintiff on instructions submits that Court Fee shall be filed within two days from today.
6. Application stands disposed of in view of above. CS(OS) 419/2012 & I.A.NO.3311/2012 (O XXXIX R1& 2 CPC).
7. Plaintiff has filed the present suit for permanent and mandatory injunction.
8. Issue summons in the suit and notice in the application to defendants, returnable on 17.4.2012.
9. As per the plaint, plaintiff Tata Power Delhi Distribution Limited is a distribution licensee for supply of electricity in North and North-West Delhi. After coming into force of Delhi Electricity Reforms Act, 2000, plaintiff is stated to have taken over all the operations and functions of distribution of electricity in North and North-West Delhi from the erstwhile Delhi Vidhyut Board (DVB) and is engaged in the essential service and business of public importance of distribution of electricity in North and North-West Delhi. Further, as per the plaint, plaintiff is supplying electricity to over 50.00 lakhs residents of Delhi, having a consumer base of over 10.00 lakhs registered consumers, a peak load of 1300 MW and its operations are spread over 510 sq. kms. Delhi Government holds 49% shareholding in the plaintiff and activities of the plaintiff fall within the realm of essential services and activities, which serve a vital need of the consumers.

10. Learned senior counsel for the plaintiff submits plaintiff on 14.2.2012 in order to disrupt the services, defendant no.1 vide an email dated 14.2.2012, sent a notice under Section 22 of Industrial Disputes Act, 1956, to the plaintiff threatening to hold a strike on 28.2.2012 primarily for the reason to lend a support to other trade unions and federations to call for strike on 28.2.2012. Senior counsel further submits that the notice dated 14.2.2012 issued by defendant no.1 to the plaintiff under Section 22 of Industrial Disputes Act, is being assailed by the plaintiff on various grounds including that the said notice has been issued in violation of Section 22 of Industrial Disputes Act and, thus, the same is illegal and liable to be quashed. Senior counsel next submits that a bare reading of the said notice, sent by defendant no.1 to the plaintiff vide email dated 14.2.2012, would show that to call for strike is neither related to the plaintiff company nor any serious grievance has been raised against the plaintiff and, thus, there is no justification to call for any strike by defendants on 28.2.2012 and to hold the entire city at ransom. Senior counsel also submits that employees of the plaintiff are covered under Section 4(i) of Delhi Electricity Supply Undertaking (DMC) Service Regulations and the provisions of Central Civil Service (Conduct) Rules, as application to the Central Government employees, shall apply to the employees of DESU/DVB and now the employees, who stand transferred to the plaintiff. Senior counsel contends that as per Rule 7 of Central Civil Services (Conduct) Rules, the employees are prohibited from resorting to or in any way and abetting any form of strike in connection with any matter pertaining to his service or the service of any other Government servant.

11. Learned senior counsel for the plaintiff has drawn the attention of the Court to Rule 7(2) of Central Civil Service (Conduct) Rules, which reads as under:

7. Demonstrations and strikes No government servant shall (ii) resort to or in any way abet any form of strike or coercion or physical duress in connection with any matter pertaining to his service or the service of any other government servant.

12. In support of above submissions, learned senior counsel for the plaintiff has placed reliance in T.K. Rangarajan v. Government of T.N. And Others, reported at 2003 (6) SCC581 more particularly paras 12, 17 to 19, which reads as under:

12. Law on this subject is well settled and it has been repeatedly held by this Court that the employees have no fundamental right to resort to strike. In *Kameshwar Prasad v. State of Bihar and Anr.* [1962 Suppl. (3) SCR369 this Court (Constitution Bench) held that the rule in so far as it prohibited strikes was valid since there is no fundamental right to resort to strike. (B) There is no legal / statutory right to go on strike.

17. There is no statutory provision empowering the employees to go on strike.

18. Further, There is prohibition to go on strike under the Tamil Nadu Government Servants Conduct Rules, 1973 (hereinafter referred to as "the Conduct Rules"). Rule 22 provides that "no Government servant shall engage himself in strike or in incitements thereto or in similar activities."

Explanation to the said provision explains the term 'simile activities'. It states that "for the purpose of this rule the expression 'similar activities' shall be deemed to include the absence from work or neglect of duties without permission and with the object of compelling something to be done by his superior officers or the Government or any demonstrative last usually called "hunger strike" for similar purposes. Rule 22-A provides that "no Government servant shall conduct any procession or hold or address any meeting in any part of any open ground adjoining any Government Office or inside any Office premises -- (a) during office hours on any working day; and (b) outside office hours or on holidays, save with the prior permission of the head of the Department or head of office, as the case may be. (C) There is no moral or equitable justification to go on strike.

19. Apart from statutory rights. Government employees cannot claim that they can take the society at ransom by going on strike. Even if there is injustice to some extent as presumed by such employees, in a democratic welfare State, they have to resort to the machinery provided under different statutory provisions for redressal of their grievances. Strike as a weapon is mostly misused which results in chaos and total maladministration. Strike affects the society as a whole and particularly when two lakh employees go on strike eumasse, the entire administration comes to a grinding halt. In the case of strike by a teacher, entire educational system suffers; many students are prevented from appearing in their

exams which ultimately affect their whole career. In case of strike by Doctors, innocent patients suffer; in case of strike by employees of transport services, entire movement of the society comes to a standstill; business is adversely affected and number of persons find it difficult to attend to their work, to move from one place to another or one city to another. On occasions, public properties are destroyed or damaged and finally this creates bitterness among public against those who are on strike.

13. Learned senior counsel for the plaintiff has strongly urged before this Court that there would be no moral or equitable justification for the defendants to go on strike as there is no legal/statutory right to go on strike. Senior counsel further submits that plaintiff has an apprehension that defendants no.1 to 7 and their members on 28.2.2012 are likely to obstruct/disrupt the system of the plaintiff, supply of electricity and can cause extensive damage to the plaintiffs premises, properties and installations. Senior counsel next submits that in case the employees of defendants succeed in holding the strike and disrupting the electricity supply on 28.2.2012 not only the consumers of North and North-West Delhi will suffer but it would have a chain reaction as in case of a switch off of electricity of one District the voltage would increase manifold in other areas, which would result in an automatic shut down of the electricity in some other Districts as well. Senior counsel, thus, prays for ex parte ad interim injunction.

14. I have heard counsel for the plaintiff and also perused the plaint, application and the documents, including notice dated 14.2.2012 filed along with the plaint. A bare perusal of the notice dated 14.2.2012, addressed by defendant no.1 to the plaintiff, would show that defendants have no serious grievance against the plaintiff and the strike is simply to support the workmen of other unions and to press various demands, which have not been raised in the near past. Taking into consideration the judgments of the Supreme Court relied upon by the plaintiff; the fact that plaintiff is engaged in the essential service of distribution of electricity in North and North-West Delhi and electricity is one of the basic amenities and its distribution is vital for the smooth functioning of the city including hospitals, educational institutions, Government Offices and the like; and in case defendants are permitted to go on strike on 28.2.2012 and disrupt the electricity supply to

North and North-West Delhi, it is likely to lead chaos and the defendants cannot be permitted to hold the city at ransom.

15. Ordinarily, this Court would permit defendants to demonstrate peacefully and at a distance of the properties of the plaintiff but having regard to the grounds for holding a strike, which are mentioned in the notice dated 14.2.2012 sent by defendant no.1 to the plaintiff vide email, wherein in para 1 it has been mentioned that a country-wide general strike has been called on 28.2.2012 simply to support the industrial trade unions and federations and taking into consideration the submission made by learned senior counsel for the plaintiff that strike by defendants is neither related to the plaintiff company nor any serious grievance has been raised against the plaintiff in the near past, I am of the opinion that in case defendants are permitted to call a strike on 28.2.2012 or on any other date it may likely to cause great inconvenience and tremendous hardship to the members of the public. I am satisfied that it is a fit case for grant of ex parte ad interim injunction. Accordingly, defendants no.1-7, including their members, officers, agents, affiliates and office bearers are restrained from (i) going on strike on 28.2.2012 or on any other date; and (ii) carrying out any demonstration, picketing and from obstructing or preventing and undertaking any disruptive/obstructive directly or indirectly, or from causing obstruction/impediment in ingress and egress of the plaintiffs Corporate, Head Quarters at 33 KV Grid Substation Building, Hudson Lines, Kingsway Camp, Delhi, and at the Grid Stations, the District Offices, Customer Care Centers. Defendants 8 and 9 will render appropriate and meaningful interpretation of the order passed by this Court today.

16. Plaintiff shall comply with the provisions of Order XXXIX Rule 3 CPC within two days from today.

17. DASTI.

2. Counsel for the defendants submits that the present suit has become infructuous in view of the fact that there has been no strike in the past two years and further the defendants are not contemplating to go on strike in line with or arising from the notice dated 14.02.2012. Counsel further submits that in future in case the defendants go on strike they shall follow the law as per Section 22 of the

Industrial Disputes Act. In view of the stand taken by counsel for the defendants, as agreed, the present suit is disposed of on the basis of the statement made by counsel for the defendant that in case the defendants resolve to go on strike they shall comply with the requirements and as per the mandate of Section 22 of the Industrial Disputes Act. It is also agreed that, should the defendants decide to go on strike in future, the plaintiff would have the right to take recourse to such remedies as are available in law. All legal issues are kept open. Considering that the suit has been disposed of prior to the framing of issues the plaintiff would be entitled to refund of Court fee as per Section 16A of the Court Fee Act. G.S.SISTANI, J.

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