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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5765/2014 & C.M. No.7204/2015

LAUV KUMARPetitioner

Versus

UNION OF INDIA & ORS.Respondents

+ W.P.(C) 7241/2015

COMMON CAUSEPetitioner

Versus

GOVT OF NCT DELHI & ORS.Respondents

Present:-

Petitioner in person in W.P.(C) No.5765/2014

Ms.Meera Bhatia, Adv. with Mr.K.Anand Singh, Adv. for the petitioner in W.P.(C) No.7241/2015

Mr.Kirtiman Singh, CGSC with Mr.Waize Ali Noor, Mr.Pranav Agrawal, Advocates for UOI.

Mr.Sanjay Dewan, Advocate with Mr.Palak Rohmetra, Advocate for R-4 in W.P.(C) No.5765/2014.

Mr.Peeyoosh Kalra, ASC with Mr.Shiva Sharma, Ms.Sona Babbar, Advocates for GNCTD.

Mr.Sandeep Sethi, Senior Advocate with MrAnupam Varma, Mr.Nikhil Sharma, Mr.Devashish Marwah, Advocates for BRPL, BYPL, TPDDL.

Mr.Anil Grover, Advocate with Ms.Kanika Singh, Ms.Noopur Singhal, Advocate for NDMC.

Ms.Pratima K.Gupta, Adv. with Ms.Alpna Malik, Advocate for DERC.

Mr.Prashant Mehta, Adv. with Mr.Adarsh Ramakrishnan, Adv. for DTL.

Mr.Rahul Singhal, Adv. for Mr.Gaurang Kanth, Adv. for R-11/EDMC

ORDER
05.12.2016

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

1. Both these petitions have been filed as Public Interest Litigation. In W.P.(C) No.5765/2014, the petitioner is seeking a mandamus from this Court directing the respondents to formulate proper statutory framework, Rules, Regulations to deal with the claims for violation of fundamental rights arising from electrical accidents and also to ensure better safety and protection of the residents of Delhi from electrocution deaths and impose strict compliance norms on the licensees.
2. In W.P.(C) No.7241/2015, the petitioner is seeking directions to the concerned agencies to comply with the necessary safety standards while installing the electricity poles and fixing the responsibility on the concerned officials for the electrocution deaths caused due to negligence.
3. As we could see, the specific allegation in both the petitions is regarding non-observance of safety measures and standards with regard to electric installations in Delhi leading to loss of life and property. It is also alleged that the respondents failed to observe strict compliance of the Public Safety Legislations such as the Electricity Act, 2003 and Rules/Regulations thereby causing deaths of the residents of Delhi.
4. In compliance of the orders passed by us, Counter Affidavits were filed on behalf of Respondent No.1 / Ministry of Power and Respondent No.3/Central Electricity Authority stating the adequate Rules, Regulations and Guidelines have already been formulated and are presently in place. It was further stated that:

“12.1-12.12 It is submitted that the Petitioner has made Ministry of Power (Respondent No.1) & Central Electricity Authority (Respondent No.3) as the Respondent presumably because of powers vested under Electricity Act, 2003 to prepare Safety Rules/Regulations and the Standards in the Electrical Installations. It is further submitted that the accidents listed in the present petition do not fall under the jurisdiction of the Electrical Inspectorate of Central Electricity Authority (Respondent No.3)/Ministry of Power (Respondent No.1). The implementation of the safety measures provided in the Regulations is the responsibility of the supplier or owner or consumer of the installation. It is the responsibility of the supplier i.e. the Distribution Companies of NCT of Delhi to consistently comply with the safety regulations in the electrical system in their jurisdiction & maintain and operate the system in a condition free from danger.”

5. Compliance Reports have also been filed on behalf of Respondent Nos.7, 8 and 9 stating that the Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010 were amended and for compliance of all the safety measures, there were designated officials as Safety Officers as also an Electrical Safety Officer. It was further submitted that they have been conducting periodic inspections and tests on the electrical installations.

6. We have heard the learned counsel for both the parties and perused the material available on record.

7. The principal question in the instant case is whether the respondents are responsible for the incidents in question. We deem it appropriate to mention the statutory framework as it exists under the Electricity Act, 2003 which is stated herein below:

“Section 53. (Provisions relating to safety and electricity supply): The Authority may in consultation with the State Government, specify suitable measures for –

(a) protecting the public (including the persons engaged in the generation, transmission or distribution or trading) from dangers arising from the generation, transmission or distribution or trading of electricity, or use of electricity supplied or installation, maintenance or use of any electric line or electrical plant;

(b) eliminating or reducing the risks of personal injury to any person, or damage to property of any person or interference with use of such property ;

(c) prohibiting the supply or transmission of electricity except by means of a system which conforms to the specification as may be specified;

(d) giving notice in the specified form to the Appropriate Commission and the Electrical Inspector, of accidents and failures of supplies or transmissions of electricity;

(e) keeping by a generating company or licensee the maps, plans and sections relating to supply or transmission of electricity;

(f) inspection of maps, plans and sections by any person authorised by it or by Electrical Inspector or by any person on payment of specified fee;

(g) specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer for the purpose of eliminating or reducing the risk of personal injury or damage to property or interference with its use.”

8. The Respondent No.1/Ministry of Power is responsible for implementation of Electricity Act, 2003 and also all matters relating to Central Electricity Authority, Central Electricity Board and Central Electricity Regulatory Commission. The Respondent No.3 / Central Electricity Authority (CEA) is a statutory organization which has to undertake the suitable measures specified under Section 53 of the Electricity Act, 2003, i.e., provisions relating to safety and electricity supply. The

Respondent No.5 / Delhi Electricity Regulatory Commission was constituted by Government of NCT of Delhi vide Notification No.F.11 (28)/98-EB/341 dated 03.03.1999 to aid and advise the Government in matters concerning electricity generation, transmission, distribution and supply in the National Capital Territory of Delhi; to regulate the operation of the power system within the National Capital Territory of Delhi; to set standards for the electricity industry in the National Capital Territory of Delhi including standards related to quality, continuity and reliability of service etc. Respondent Nos.7 and 8 are electricity distributors and suppliers in Delhi.

9. Undoubtedly, there are statutory legislations and guidelines to ensure safety measures for the public and the Distribution Companies being the suppliers of electricity are bound to maintain the supply system in a high-quality condition. In case of any mishap due to electrical system, it is the Distribution Companies on whom the burden lies to prove that it was not their fault and the act cannot be termed as an act of negligence. Additionally, Delhi Electricity Regulatory Commission as a key regulator of power sector has certain obligations enumerated thereunder and hence, has to comply with the requisite safety measures and standards to ensure that there is no element of carelessness or negligence on the part of Distribution Companies in maintaining the electricity supply.

10. According to the DISCOMs, they have been continuously supervising and inspecting the installations, carrying out an Annual Maintenance Checkups (AMC), adhering the safety standards as mandated under the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010, undertaking initiatives for enhancing network safety such as conduct of theme based safety drives, conduct of Safety

Inspections of Public Installation with heavy foot fall, use of retro-reflective paints on poles/pillars, replacement of oil filled transformers, installation of safety Board's / Hoardings depicting electrical Do's and Don'ts, screening of electrical safety slides in cinema halls, installation of Safety Boards with contact details for registering safety issues etc.

11. A perusal of the counter affidavits of the respondents shows that each of them is claiming that they are complying with and implementing all the safety measures. However, despite the same, incidents of electrical accidents have been occurring. We are of the view that the respondents cannot shy away from their duty and shift the burden on each other, rather it would be appropriate for them to work together to ensure that such incidents do not occur in future.

12. Being concerned with the number of electrocutions occurring and in the light of the above analysis, both the petitions are disposed of with the following directions:

- (i) The Electricity Regulatory Commission being a regulatory body must oversee strict implementation and compliance of the safety measures by the DISCOMs (Distribution Companies) for all the residents against electrocution deaths and other electricity related injuries.
- (ii) The Regulatory Commission has to ensure that officers of DISCOMs shall comply with the directions issued by the Commission from time to time. Any violation of these instructions or directions would attract penal action against the erring department/officer under the Electricity Act, 2003.
- (iii) The Electricity Regulatory Commission and DISCOMs to take appropriate measures to prevent these accidents through the use of

insulation, guarding, grounding, electrical protective devices and safe work practices.

- (iv) DISCOMs to take urgent cognizance of cases of electrocutions and pay compensation in accordance with law to the dependents of the deceased in case lapses are established in maintaining the prescribed safety measures.
- (v) The other land owning agencies shall give the respondents proper assistance in order to prevent any untoward incidents due to electrocutions in future.

13. Both the writ petitions are disposed of accordingly. All the pending applications shall also stand disposed of.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

DECEMBER 5, 2016
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