

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN AT GILGIT
SMC. NO. 27/2011**

(Illegal occupation on the Power Houses by the PWD Contractors)

Advocate General Gilgit-Baltistan

Mr. Asif Bilal Lodhi, Home Secretary Gilgit-Baltistan

Mr. Amjad Khan, DIG Crimes G.B

Secretary Works G.B

Mr. Ali Akber Jan, Chief Engineer Works G.B

Mr. Mehdi, Chief Engineer W&P G.B

Mr. Azad Zamin, Deputy Commissioner Gilgit

Mr. Wasal Khan, S.P. Gilgit

Mr. Deedar Shah, XEN B&R Division Gilgit

Mr. Hamid Hussain, XEN W&P Division Gilgit

Order Dated 28-11-2011.

The DIG Assisted by S.P. Gilgit present in court has submitted that separated cases have been registered against the persons involved in the incident of disconnection of electricity supply and break down of Nalter and Karga power houses under section 341, 353, 186, 430, 506 (2) and 147. The DIG when pointed out that as per contents of FIRs and publication of the news item in the newspaper *prima facia*, it was an act of terrorism, within the purview of Section 6 read with section 7 of ATA 1997, but local police taking the matter very lightly registered an ordinary case of interruption in the discharge of official duty.

The learned Advocate General has submitted that since no damage was caused to the Government property therefore the police has not added an offence U/S 6 of ATA, Act 1997 and same reason has been given by DIG Crimes for not adding the provision of section 6 of ATA Act 1997 and realizing the seriousness and sensitivity of the matter has justified the action of offenders and also of police. The bare reading of FIR would show that an attempt was made to cause damage to the power houses by disconnecting the

electricity supply form power houses, as a result of which the public in general was extended threat of serious crimes.

The learned Advocate General and DIG Crimes, by reading the provision of section 6 ATA 1997 in court, when were made realized about the seriousness of the matter they conceding the legal position stated that on the face of it the act of accused may fall within the definition of terrorism under Section 6 read with section 7 of ATA. The DIG states that offence under ATA Act 1997 shall be added in the cases accordingly and investigation shall be handed over to joint investigation team. The DIG further submitted that challan shall be submitted on the basis of conclusion of investigation leaving the question whether it was an act of terrorism or not for decision by the court concerned in due course of time.

The learned Advocate General has informed us that as per his information, no patient died in hospital and the relevant date and reporting of death of patient as a result of disconnection of supply of electricity in the hospital was based on mis-information.

The investigation team on completion of investigation into the cases, pertaining to the incident in which disturbance was caused to the public life, by making an attempt to damage the Government property, (power house) will submit final report within the time prescribed under the law.

The Secretary Works and Secretary Home have stated that as per claim of contractors Government of Gilgit-Baltistan has incurred a liability of about one billion and unless the genuineness or otherwise of the claims in ascertained on the basis of official record, it is not possible to make payments and further without special grant Government it not in a position to discharge the liability. It is stated that in some projects work was actually carried out but in large number of cases the record pertaining to the approval of project and actual construction at the cite is not available, and in such cases the genuineness of the claims is to be essentially ascertained carefully.

In view of the position explained by the Secretary Works at the first instance it is necessary to ascertain the genuineness or otherwise of the claims and in that Chief Secretary G.B. may in consultation with the Secretary Works and Home Secretary constituted a committee for verification of the claims of the contractors, which may be divided into two categories. The claims of first category will relate to the projects which

having been completed have been handed over to the department in proper manners. The claims of second category are in which bill have been submitted without proper approval of project or proof of sanction of project or in which there is only paper project and actual work was not carried out at the site or the project was abandoned.

The Chief Engineer, S.E. and XEN after physical verification of the project will give certificate of genuineness or otherwise of the claims and the inquiry committee in the light of record of PWD Department, will submit its report to the Chief Secretary, for final decision by the cabinet committee.

In pursuance of the decision of cabinet committee the Chief Secretary will take necessary steps for allocation of funds or for special grant as the case may be, to satisfy genuine claims of the contractors. The Secretary work and Secretary Home have been informed that this court in another case has passed restrained order for payment of mobilization advance or payment on ex-claration claim without work and all concerned must ensure that no such payment is made otherwise it may be treated a case of mis-appreciation of Government money.

The copy of this order will be sent to the Chief Secretary and Cabinet Committee for their information. The matter is accordingly disposed of with direction that the report on the subject will be submitted to the Registrar of this court within fortnight for our perusals in chamber.

Chief Judge

Judge