

MAHARASHTRA STATE ELECTRICITY DIST.CO.LTD.

Phones : (022) 26474211 }
26472131 } Extn:2222
26476609 (P)
Fax No : (022)26477471



Disciplinary Action Section
"Prakashgad", 4th floor
Station Road,
Bandra (E)
Mumbai-400 051.
E-mail:gmdc@mahadiscom.in

No. GAD/DC/Gherao-Dharna/

ADMINISTRATIVE CIRCULAR NO.105 Date:10/05/2007

Sub: Dealing with situations of agitational activities 'Gheraos' or 'Dharna' etc. by the employees, Unions or Associations.

It has been observed in the recent past that group of a employees or office bearers of the Union/Association stages 'Gherao' or 'Dharnas' inside the office thereby causing wrongful confinement of the officers at their place of duty. During such Gherao/Dharnas, demonstrations/meetings are held within office hours inside and outside the office premises. Often such Gherao/Dharnas/demonstrations/meetings are being held beyond office hours also and the officers are forced to remain in confined within the office premises and coercive methods are being used against the employees discharging their lawful duties.

2. It is necessary to bring to the notice of all the officers and employees of the Company that they are "Public Servant" as defined under Section 21 of the Indian Penal Code and are expected to discharge their duties without any obstructions or hindrance from any section of the society including employees or their associations/unions. The activities as referred to above are being carried out knowingly or unknowingly without understanding the seriousness of the activities. It is therefore, necessary to bring to the notice of every employee of the Company, the legal aspects of such wrongful confinement and obstruction to the public servants.

3. It is an offence to assault or use criminal force to prevent or to deter public servant while executing his duty as such public servant and a person doing so is liable to be punished with imprisonment for a term which may extend to two years or with fine or with both under Section 353 of Indian penal Code.

4. If by virtue of Gherao/Dharnas, the public servants are not allowed to go out of their work place, it amounts to wrongful confinement and such an act is punishable under Section 342 of Indian Penal Code, wherein, imprisonment for a term which may extend to one year or fine which may extend to one thousand rupees, or both is provided.

5. Under Section 339 of Indian Penal Code, if by virtue of such Dharna/ Ghareo, if an employee is prevented from proceeding in any direction in which such employee has a right to proceed, such act is an offence known as wrongful restraint and it is punishable under Section 341 of the Indian Penal Code, wherein, the person found guilty may be punished with simple imprisonment for a term which may extend to one month or with fine upto Rs. 500/- or with both.

6. Time and again the Hon'ble Supreme Court has already held that the activities like strikes in public utilities are illegal. It shall also be noted that the electricity distribution activities fall within the ambit of essential services and if such services are paralyzed by any act, public in general are the sufferers.

7. In order to curb such illegal activities, it has been decided to take stringent actions hereinafter.

(1) All the employees/associations/unions are requested to note that the Gherao/Dharna/demonstrations/meetings shall not be held during office hours and within office premises.

(2) The employees/associations/unions involved in wrongfully restraining the officers of the Company will be dealt with according to law.

(3) It has been observed that officers in the field against whom Gherao/Dharna agitation is staged are not taking due cognizance of such activities though such activities are subversive of discipline and harmful to the public interest as well as interest of the Company. Such officers are also not taking recourse of the law to deter the participants, rather they mingle with agitators in such a manner that it becomes difficult to segregate the demonstrators from such officers of the Company. Such an act on the part of the responsible officers gives boost to the agitators and it is unbecoming of an officer and may constitute good and sufficient reason for taking stern action against such officers, if they fail to take prompt action against the agitators.

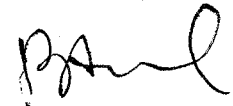
(4) It has been observed that soft attitude on the part of the concerned officers is not only creating nuisance but is also hampering the day to day working of the Company affecting the services to the consumers and also it becomes torturous to the officers/employees facing wrongful confinement.

8. In order to overcome such unlawful activities, following instructions are being issued which shall be followed scrupulously by all concerned:--

- (i) The officer affected by Gherao/Dharna or any agitational activities by the employees or unions abruptly or with a very short notice, shall immediately intimate to the Police Station having jurisdiction on telephone or mobile or through any other mode of communication.
- (ii) Assistance of Vigilance Officials of the area concerned may be taken to lodge written report/complaint to the Police station having jurisdiction for registration of offence and for taking action as per law.
- (iii) Copies of FIR lodged shall be endorsed to Police Commissioner/ Superintendent of Police and also to Director (V&S), Director (operation), Chief General Manager(P), Chief General Manager (T/E), Chief Industrial Relations Officer and Chief Publicity & Public Relations Officer.
- (iv) The Vigilance Officials shall ascertain the names of the employees participated in the Gherao/Dharna and furnish the same to the controlling Officer of the concerned employees.
- (v) The Vigilance Officials shall arrange for video shootings during such agitational activities covering participants. In case video shooting is not possible or practicable then photographs of such participants may be taken. Such video clips or photographs shall form part of the evidence for further proceedings.
- (vi) Departmental action shall be taken against the employees as per Company's regulations for taking part in such illegal activities.
- (vii) Departmental proceeding initiated shall be completed within 2 months by observing due procedure without waiting for the outcome of the FIR registered against them.
- (viii) Even in case where no FIR is lodged, departmental action shall be taken against the employees participating in illegal Gherao/dharna/ agitations.
- (ix) In case the Officer fails to take cognizance of the agitational activities, he shall be liable for severe disciplinary action for laxity and dereliction of the instructions.

- (x) In view of this circular, the instructions to grant EOL without pay to the employees for their absence in participating in 'morcha', 'dharna' or any other agitational activities etc. vide confidential Circular No. 13 dt. 2.8.1974, No. 212 dt. 23.5.1978 & No. 88 dt. 7.6.1980 stands withdrawn.
- (xi) In supercession of all or any other instructions issued earlier, it has been brought to the notice of the concerned that absence of an employee from duty for participating in agitations, morchas, dharnas etc. will be treated as unauthorized absence and such absence shall be treated as break in service, for all the purposes including retiring benefits.
- (xii) Any activity on the part of employees encouraging indiscipline as above, shall be viewed serious.

9. It is however, made it clear that the management by issuing such instructions does not intend to suppress legal activities of the unions/ associations which are organized or demonstrated by observing due constitutional ways and means and by following relevant statutory provisions. The employees are free to stage peaceful agitations according to permissible laws & regulations.



Managing Director

To:

All as per Mailing List upto the level of Sub. Divisional Officers in the field and Corporate office.