

IN THE COURT OF JUDICIAL MAGISTRATE (FIRST CLASS),
70TH COURT, MAZGAON, MUMBAI.

Order below Exh. 1 in Misc Application No. 1307/M/2025

1. Perused the application. Heard applicant in person. It is the contention of the applicant / complainant that accused no. 1 and 2 who are allegedly working in the capacity of General Manager in the office of BEST Coloba have issued notice dated 22.4.2024 which is illegal and without any authority. The act of accused no. 1 and 2 is beyond the scope of their power and hence, it is ultravires.

2. The complainant is alleging that he has received notice dated 22.4.2024 which was addressed to his hotel Sadguru situated at Sandhurst Road, Dongri, Mumbai. As per the complainant, accused no. 3 and 5 are facilitating the illegal installation of Smart Electric Meter in Mumbai City which is headed by accused no. 1 and 2. On the directions of accused no. 1 and 2, the Smart Electric Meters are being installed thereby cheating the consumers of electricity.

3. As per the complainant, the activity of installation of smart electric meter is being carried out forcibly by stating it as mandatory which infact is not at all compulsory and the act of forceful installation of such electric meter by the accused persons is amounting to cheating so as to wrongful gain by replacing the existing electric meters.

4. As per the complainant, the smart electric meters are not properly tested through the Metrology Department and thereby causing injury to the intended customers. It is the specific contention of the



complainant that, the accused persons are installing the smart electric meters without following the directions of the Ministers of the concerned department in its letter and spirit.

5. As per the complainant, the object of reduction of aggregate technical and commercial loss cannot be achieved through the present illegal scheme as the current loss level as per the BEST and MERC Record, it is already at a low rate of 3.5%. It is alleged that, the notices are being issued by misrepresenting the untrue facts, by claiming that the installation is free. Similarly, in the absence of valid certificate from the Metrology Department, the possibility of manipulation by correct officials cannot be ruled out. The notices are apparently illegal as it does not disclose the details in respect of the issuing authority as regards the name, designation and official address which creates doubt about the truthfulness of the contents therein. It is alleged that, the authorities of BEST are changing the nature of notice on pointing out the faults therein which shows lack of clarification. The installation of smart electric meters is harmful to the human as well as surrounding environment. It is further alleged that concerned authorities have issued the illegal notices under section 163 (3) of Electricity Act just to threaten the consumers so as to carry out the illegal activity of installation of the smart electric meter as no opportunity to raise objection has been given. It is alleged that, the original cost of the project was Rs.659.17 Crore as per the letter dated 21.11.2022 issued by Power Finance Corporation which has now been increased to Rs.1303 Crore. The cost of smart electric meters as per the MSEB Rs.4000/- and BEST is charging Rs. 16,000/-. As per the complainant, the alleged scheme of installation of smart electric meters notified by



the Ministry of Power is strictly applicable only to the straight owned and Union Territory Distribution company and BEST being a local municipal transport and electricity body does not satisfy the requirement of a State or Union Territory DISCOM. Therefore, inclusion of BEST in RDSS is not only ultravirus, but also fraudulent.

6. Therefore by way of present application applicant/complainant is praying for initiating action against the accused persons for the offence punishable under section 198, 201, 255, 228, 236, 256, 257, 316(1), 316(5), 318(4), 336 (2), 336(3), 340(2), 344 read with 61(2) of the BNS, 2023. Some of the offences are cognizable in nature. Furthermore, as per directions of the Hon'ble Apex Court in case of *Priyanka Shrivastava & another v/s State of UP 2015 All SCR 2592* the contentions in the application are supported by an affidavit. The applicant has also complied the provisions of section 173 (4) before approaching this court. It reveals from the record that despite the compliance by the applicant under section 173(4) of the Bharatiya Nagarik Suraksha Sanhita, 2023, the police authorities have not initiated any action. Therefore, considering the nature of the allegations made in the application which are in the nature of cognizable offence, it is prayed by the applicant that, the matter be sent to the police machinery for investigation by giving necessary directions under section 175(3) of the BNSS, 2023.



7. On perusal of the section 175(3) BNSS, 2023, it seems that, before issuing any such direction, the submissions of the Police Officer in this regard are required to be considered, then and then only, such an order for investigation as aforesaid can be directed. Section

175(3) of the BNSS reads as under :

175 (3) -Any Magistrate empowered under section 210 may, after considering the application supported by an affidavit made under sub-section (4) of section 173, and after making such inquiry as he thinks necessary and submission made in this regard by the police officer, order such an investigation as above-mentioned.

8. Similarly, as per sub-section (4), a duty is casted on the concerned Magistrate to call report containing the facts and circumstances of the alleged incident, from the superior officer of the person against whom the allegations are made in cases where a complaint is filed by making allegations against a public servant arising in course of discharge of his official duties before ordering the registration of crime for the purpose of investigation. It is important to mention here that, the persons against whom the allegations are made are admittedly the public servants. There is no mandate that such submissions of police officer contemplated in 175(3) and report contemplated in 175(4) of the BNSS, 2023 should be called simultaneously or one after the other. But, considering the nature of the allegations, it would be judicious to call the submissions of a police officer in this regard as required by section 175(3) before ordering the investigation in the present case. Hence, the order -

ORDER

1. Police Station Officer of Dongri Police Station is hereby directed to file his submission / report in compliance of the provisions of section 175(3) of the BNSS, 2023 in regard to the allegations made in the complaint.



2. The concerned PSO shall submit his submission / report on or before next date.

3. The copy of the complaint along with necessary documents be forwarded to the PSO, Dongri Police Station.

Dt. 16.5.2026

NAMY
 (H.S. Puradupadhye)
 Judicial Magistrate (First Class),
 70th Court, Mazgaon, Mumbai.

True Copy

Jmt 30/5/2026
 Judicial Clerk
 Judicial Magistrate First Class
 70th Court, Mazgaon, Mumbai.

Application No. *1787/2026*
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