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

+ LPA 368/2017

TEJ PAL

..... Appellant

Through: Mr. Medhanshu Tripathi, Advocate
along with Mr. Kulish Tanwar and Mr.
Maninder Dubey, Advocates.

versus

BSES RAJDHANI POWER LTD

..... Respondent

Through: Mr. Sunil Fernandes, Standing
Counsel for BSES along with Mr.
Arnav Vidyarthi and Mr. Anurag
Vijay, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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15.05.2017

CM No. 18280/2016(exemption)

Allowed, subject to just exceptions.

**CM No. 18281/2017 (application under Section 5 of condonation of
delay of 7 days in filing the appeal**

Vide this application, the appellant seeks condonation of delay
of 7 days in filing the present petition.

For the reasons stated in the application, same is allowed.

LPA 368/2017

Admit.

Issue notice. Mr. Sunil Fernandes, Advocate appearing on behalf of the respondent accepts notice.

We have heard learned counsels and proceed to dispose of the appeal.

The learned Single Judge has dismissed the writ petition being W.P.(C) No. 2578/2017 by the impugned order dated 27.03.2017. The petitioner had preferred this writ petition to seek a direction to the respondent to restore the electricity supply at its hospital namely Clifton Springs Hospital at Plot No. 3, Khasra No. 430/2, Village Roshanpura, Najafgarh, New Delhi.

The submission of the learned counsel for the appellant is that so far as the complaint preferred by the respondent/BSES is concerned, the same is pending before the learned Special Court Dwarka, New Delhi vide CC No. 425563/2016 under Section 135 and 138 of the Electricity Act, 2003.

Learned counsel submits that the appellant, in any event, is entitled to either restoration of electricity or fresh connection and the respondent is all obliged to provide the same.

Learned counsel for the respondent has argued that there are outstanding commercial dues against the appellant which are subject matter of the aforesaid complaint case. It is informed that the same aggregate to about Rs. 13, 90, 171/- in respect thereof and Assessment bill for theft dated 08.06.2016 has been raised by the respondent upon the appellant. Learned counsel for the appellant submits that the same is a matter of dispute and in any event, the appellant without prejudice to his rights and contentions in the aforesaid case is ready and willing

to deposit Rs. 5.5 lacs subject to final adjustment, so that the electricity of the appellant may be restored.

Mr. Fernandes has taken instructions and, without prejudice to the rights and contentions of the respondent, he states that the respondent is agreeable to issue a fresh connection to the appellant subject to fulfilment of the commercial terms and conditions, provided the appellant deposits the amount of Rs. 5.5 lacs with the respondent. Accordingly, the appeal is disposed of by directing that in case appellant deposits the amount of Rs. 5.5 lacs with the respondent without prejudice to the rights and contentions of the parties in the aforesaid complaint case, and complies with the other commercial conditions, the respondent shall grant fresh connection of electricity to the appellant within 48 hours of the completion of the commercial formalities and deposit of the amount. It is made clear that the accounting and adjustments of the deposit made by appellant shall abide by the decision in CC No. 425563/2016.

The appeal stands disposed of accordingly.

Dasti.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 15, 2017/ss