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

+ **W.P.(C) 4425/2017**

NESTAWAY TECHNOLOGIES & ORS.

..... Petitioners

Through: Mr. Sanjeev Puri, Senior Advocate
with Ms. Binsy Susan, Mr. Adarsh
Ramakrishnan & Mr. Akshay
Sharma, Advocates

Versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Peeyoosh Kalia, Additional
Standing Counsel with Mr. Shiva
Sharma, Advocate for respondent
No.1
Ms. Pratima Gupta, Advocate for
respondent No.2
Mr. Sunil Fernandes, Standing
Counsel for BSES with Mr. Arnab,
Mr. Vidyarthi & Mr. Anurag
Vijay, Advocates for respondent
No.3

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

22.05.2017

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C.M.No. 19338/2017 (u/S 151 CPC)

Allowed subject to all just exceptions.

W.P.(C) 4425/2017 & C.M.No. 19337/2017 (for stay)

Petitioners are the E-Brokers who allege discrimination, asserting that their clients are being charged electricity tariffs at non-domestic rates whereas the clients of traditional real estate brokers are being charged

electricity tariffs at domestic rates. The grievance of petitioners is that the parties who came as tenants in residential premises through petitioners are being charged non-domestic rates by labeling such parties as paying guests, hostellers or residents in guest houses. In this regard, petitioners have made a Representation on 20th April, 2017 (*Annexure P-8*) to respondent No.2- *Delhi Electricity Regulatory Commission*. In this petition, a direction is sought to respondent No.2 to clarify that tariff rate for non-domestic use is not applicable to accommodations rented through petitioners.

Learned senior counsel for petitioners submit that parties (*whose details are given in Annexure P-1*) had taken the homes on rent through petitioners and they are being charged at non-domestic rates by holding them as Paying Guest/hostellers or guest house residents and this has affected the business of petitioners and so, respondent No.2 be called upon to decide petitioners' representation (*Annexure P-8*) at the earliest and till then, respondent No.3- *BSES Rajdhani Power Limited* be directed not to take coercive steps against tenants who have taken the premises through petitioners.

Upon notice, counsel for respondent No.2- *Delhi Electricity Regularity Regulatory Commission* submits that the subject matter of Representation (*Annexure P-8*) has to be considered by respondent No.3- *BSES Rajdhani Power Limited* because they have to decide as to whether the clients of petitioners are to be charged electricity tariff at non-domestic rates or at domestic rates.

Counsel for third respondent- *BSES Rajdhani Power Limited* submits that there is no discrimination between E-brokers or traditional

brokers and tariff rates for Paying Guest/hostellers or guest house are being uniformly charged at non-domestic rates and parties at serial No.1 and 5 to 7 in *Annexure P-1* have already availed of remedy of appeal before the concerned Additional District Magistrate, Government of NCT of Delhi and appeal of one of them i.e. of *Ms. Nimmi Grewal* is coming up for hearing on 30th May, 2017 and till date, no interim orders have been passed by the Appellate Authority. So, it is submitted that this petition ought not be entertained, as petitioner can always be called upon to explain its stand before the Appellate Authority concerned.

At this stage, learned senior counsel for petitioners clarifies that appeals of their clients at serial No.2, 3, 7 & 8 in *Annexure P-1* are pending before the Additional District Magistrate, Government of NCT of Delhi. It is submitted that respondent No.2 be directed to make its stand clear by way of giving a response in writing to petitioners' Representation (*Annexure P-8*).

Counsel for second respondent submits that petitioners' Representation (*Annexure P-8*) would be considered and decided within a week and its copy would be furnished to petitioners' counsel as well as counsel for respondent No.3.

Upon hearing and on perusal of petitioner's Representation (*Annexure P-8*) and the material on record, it is deemed appropriate to dispose of this petition while relegating petitioners to make their stand clear before the Appellate Authority by moving an appropriate application within a week from today. Since it is the stand of respondents No.3 & 4 that petitioners are required to explain their case before Appellate Authority, therefore they shall have no objection qua the

maintainability of such application by petitioners. A copy of application sought to be filed by petitioners before concerned Authority be furnished to opposite side and response thereto, if any, be filed by the parties prior to the next date of hearing before the concerned Authority. The concerned Authority shall afford an opportunity of hearing to both the sides in the pending appeal as well as petitioners' application and thereafter, shall pass interim orders, within a week. Needless to say that both the sides are at liberty to put their stand before the concerned Authority and in case petitioners are still aggrieved, then they shall have the remedy, as available in law.

With aforesaid directions, this petition and application are disposed of.

Dasti.

**(SUNIL GAUR)
JUDGE**

MAY 22, 2017

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