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

Judgment delivered on : 26.05.2017

+ **W.P.(C) 4409/2017**

SIMHAPURI ENGERY LIMITED

..... Petitioner

versus

**CENTRAL ELECTRICITY REGULATORY
COMMISSION AND ANR**

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Rajshakher Rao, Mr. M. Mishra, Ms. Shikha and Mr. Nishant Singh, Advs.

For the Respondent : Mr. Nikhil Nayyar and Mr. N. Sai Vinod, Advs. for R-1
Mr. Suparna Srivastava, Adv. for R-2

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

22.05.2017

SANJEEV SACHDEVA, J. (ORAL)

CM No. 19254/2017 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 4409/2017 & CM No. 19253/2017 & 19255/2017

1. Learned counsel for the respondents submit that the petition of the petitioner, which is stated to have been filed on 18.05.2017, was

not taken up for consideration, as the petitioner has not filed the hard copy of the said petition.

2. Learned counsel for the respondent no. 1 – Commission submits that the petition has now been set down for hearing on 20.06.2017.

3. Learned counsel appearing for respondent no. 2 submits that as of now the letter of credit has not been invoked, though the respondent no. 2 has the right to invoke the same.

4. Without going into any controversy, as the petition is listed before the commission on 20.06.2017, this Writ Petition is disposed of in the following terms:

- (i) The petitioner shall extend the letter of credit in terms of the contract between the petitioner and respondent no. 2.
- (ii) Till the petition is taken up for hearing on 20.06.2017, the respondent no. 2 shall not invoke the letter of credit. However, respondent no. 2 would be at liberty to take all preliminary steps including raising of claim and issuing notices to the petitioner.
- (iii) The Commission would be at liberty to consider the prayer of the petitioner on 20.06.2017 or on such other date as the Commission may deem fit.

5. It is clarified that in case the petition is taken up by the Commission on 20.06.2017 and the Commission decides to defer or decline the request of the petitioner for an interim protection, the interim protection granted by this order shall cease and Respondent no. 2 would be at liberty to take appropriate steps in accordance with law.

6. It is further clarified that the Commission would be at liberty to consider the petition of the petitioner without being influenced by anything stated in this order.

7. The writ petition is disposed of in above terms.

8. Order *Dasti* under signatures of Court Master.

SANJEEV SACHDEVA, J

MAY 26, 2017
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