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

+ W.P.(C) 12522/2018

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Date of decision: 2nd September, 2019

ATUL TRIPATHI

..... Petitioner

Through: Mr.Chetan Sharma, Sr.Adv. with
Mr.A.Mishra, Adv.

Versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr.Anil Soni, CGSC with Mr.Devesh
Dubey, Adv. for R-1.

Mr. Anupam Srivastava, ASC for GNCTD with
Ms.Swati Singh, Advocate for R-2,3.

Mr.Rishi Bharadwaj and Mr.Rahul Mehalwal,
Advs. for Ms.Pratima K.Gupta, Adv. for R-4.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

: **D. N. PATEL, Chief Justice (Oral)**

1. Learned Senior Counsel for the petitioner submitted that suffice would it be for the disposal of this writ petition if prayer (d) is granted by this Court. For ready reference, the following are the prayers in this public interest litigation:-

“a) Issue a writ of mandamus or any other appropriate Writ/Order/directions to the Respondent No. 2 and Respondent No.3 to immediately constitute Selection Committee contemplated under Section 85 (1) of the 2003 Act and to take further consequential actions to complete the selection process in accordance with section 85, section 84(1) read with section 82(4) and (5) of 2003 Act; and

b) Issue a writ of mandamus or any other appropriate Writ/Order/directions to the Respondent No. 2 and Respondent No. 3 herein to make a reference under Section 85 (2) of the 2003 Act, of vacancies of Members of DERC to the Selection Committee constituted under Prayer (a) above and to take further consequential actions to complete the selection process in accordance with the other provisions of Section 85 of the 2003 Act as well as in terms of section 84(1) read with section 85 of the 2003 Act; and

c) Issue a writ of mandamus or any other appropriate Writ/Order/directions to the Respondent No. 2 and Respondent No. 3 herein to appoint Members of DERC under Section 82 (5) of Electricity Act 2003 as soon as Respondent No. 2 and 3 receive the recommendations of Selection Committee, (constituted under Section 85 (1) of 2003 Act), under Section 85 (4) of the Electricity Act, 2003; and

d) Issue a writ of mandamus or any other appropriate Writ/Order/directions to the Respondent No. 2 and Respondent No. 3 herein that the entire process right from constitution of 'Selection Committee' (i.e. under Section 85 of the 2003 Act) to appointment of Members of DERC (i.e. under section 84 (1) & 82 (5) of the 2003 Act) as sought in Prayer (a) (b) and (c) above shall be implemented in a time bound manner in a specific time frame under supervision/monitoring of this Hon'ble Court; and

e) Pass any other suitable and equitable reliefs which may be passed in public interest, in the facts and circumstances of the present case.”

2. The learned Senior Counsel for the petitioner does not press prayers (a) to (c) and (e).
3. Learned counsel appearing for respondent No.3 submitted that already a Committee has been constituted as per Section 85 of the Electricity Act,

2003 ('the Act of 2003') for filling up of the vacancy of the Members of the Delhi Electricity Recovery Commission ('DERC').

4. The petitioner is seeking time bound schedule for appointment of the Members of the DERC.

5. We expect from the Committee constituted by respondent No.3 under Section 85 of the Act of 2003 to expedite the process of filling up of the vacancy of the Members of the DERC. It is brought to our notice by respondents No.3 that approximately 95 applications have been received for the post of Members of DERC. Hence, it is submitted that it will take 60 days' time to complete the process of appointment.

6. Learned counsel appearing for respondents No.2 and 3 seeks 60 days' time to complete the recruitment process. However, instead of 60 days' time, we grant 120 days' to the respondents No.2 and 3 to fill up the vacancy of the Members of the DERC.

7. With these observations, the writ petition is disposed of.

8. Liberty is, however, reserved with the petitioner to move this Court in case of any difficulty.

CHIEF JUSTICE

C.HARI SHANKAR, J

SEPTEMBER 02, 2019

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