



2024:DHC:3391



\$~P-1 (Appellate Side)

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

Decided on: 30th April, 2024

+ **W.P.(C) 6450/2019**

INDIA POWER CORPORATION
LIMITED AND ANR

..... Petitioners

Through: Mr. Jayant Bhushan, Senior Advocate
with Mr. Anirban Bhattacharya, Mr.
Arijit Maitra, Mr. Rajeev Chowdhary,
Ms. Priyanka Bhatt, Ms. Artya
Bhushan & Mr. Yojit Mehra,
Advocates.

versus

MINISTRY OF POWER GOVERNMENT
OF INDIA AND ANR.

..... Respondents

Through: Mr Ripu Daman Bharadwaj, CGSC
for UOI.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

1. The petitioner-Indian Power Corporation Limited [hereinafter, "IPCL"] is a distribution licensee, as defined under Section 2(17) of the Electricity Act, 2003 ["the Act"], for an area of supply within the State of West Bengal. By way of this petition under Article 226 of the Constitution, it assails a communication dated 14.12.2018, by which the Central Electricity Authority ["CEA"] rejected its application for prior approval for laying a 400kV overhead line from Maithon (ISTS) to its Debipur Sub-Station. The application was made under Section 68 of the Act, and was

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rejected on the ground that the “*appropriate government*” would, in the circumstances of the case, be the Government of West Bengal, and not the Central Government.

A. Facts:

2. The petitioner’s proposal was originally to establish a transmission line from an inter-State transmission station located at Maithon, West Bengal, to its own distribution sub-station located at Chalbalpur. It is undisputed that Maithon lies outside the petitioner’s area of supply. However, the terminal point was subsequently changed to the petitioner’s sub-station at Debipur, and a fresh application for connectivity was filed with the Central Transmission Utility [“CTU”] being the Power Grid Corporation of India Limited [“PGCIL”] on 18.01.2017.¹ The matter stood resolved by an order of the Central Electricity Regulatory Commission [“CERC”] dated 29.01.2018, directing PGCIL to grant connectivity to the petitioner within two weeks. This was complied with on 16.02.2018.

3. A controversy, however, arose thereafter as to whether the “*appropriate government*” for the purposes of permission under Section 68 of the Act would be the Central Government or the Government of the State of West Bengal. The petitioner took the position that the appropriate Government for this purpose would be the Central Government, as the line is sought to be laid for the purposes of transmitting electricity from the inter-

¹ After judgment was reserved in these proceedings on 12.02.2024, an application was filed by the petitioner [C.M. APPL. 10829/2024] to take on record additional documents. Those documents show that the petitioner has, once again, been permitted to change the terminal point of connectivity back to Chalbalpur. By way of an affidavit dated 16.04.2024, the Union of India clarified that if the petitioner succeeds in this petition, it would be permitted to modify the application which was rejected by the impugned order dated 14.12.2018. C.M. APPL. 10829/2024 was, therefore, allowed by order dated 24.04.2024.



State transmission system to the petitioner's sub-station. CEA,² in the impugned letter dated 14.12.2018, however, proceeded on the basis that, since the proposed line was entirely within the geographical limits of the State of West Bengal, the application was not within its jurisdiction, but within the jurisdiction of the State Government.

B. Statutory Provisions:

4. The aforesaid facts are undisputed, but the parties join issue as to the proper interpretation of the applicable statutory provisions, which are set out below:

"Section 2: Definitions

(3) "area of supply" means the area within which a distribution licensee is authorised by his licence to supply electricity;

(5) "Appropriate Government" means,--

(a) the Central Government,--

(i) in respect of a generating company wholly or partly owned by it;

(ii) **in relation to any inter-State generation, transmission, trading or supply of electricity** and with respect to any mines, oil-fields, railways, national highways, airports, telegraphs, broadcasting stations and any works of defence, dockyard, nuclear power installations;

(iii) in respect of National Load Despatch Centre and Regional Load Despatch Centre;

(iv) in relation to any works or electric installation belonging to it or under its control;

(b) in any other case, the State Government, having jurisdiction under this Act;

(16) "dedicated transmission lines" means any electric supply-line for point to point transmission which are required for the purpose of connecting electric lines or electric plants of a captive generating plant referred to in section 9 or generating station referred to in section 10 to any transmission lines or sub-stations, or generating stations, or the load centre, as the case may be;

² The jurisdiction of the Central Government under Section 68 of the Act has been delegated to CEA by an order dated 12.02.2015.



(17) "distribution licensee" means a licensee authorised to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;

(19) "distribution system" means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumers;

(28) "generating company" means any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person, which owns or operates or maintains a generating station;

(36) "inter-State transmission system" includes--

(i) any system for the conveyance of electricity by means of main transmission line from the territory of one State to another State;

(ii) the conveyance of electricity across the territory of an intervening State as well as conveyance within the State which is incidental to such inter-State transmission of electricity;

(iii) the transmission of electricity within the territory of a State on a system built, owned, operated, maintained or controlled by a Central Transmission Utility;

Section 68: Overhead Lines

*(1) An overhead line shall, **with prior approval of the Appropriate Government**, be installed or kept installed above ground in accordance with the provisions of sub-section (2).*

(2) The provisions contained in sub-section (1) shall not apply--

(a) in relation to an electric line which has a nominal voltage not exceeding 11 kilovolts and is used or intended to be used for supplying to a single consumer;

(b) in relation to so much of an electric line as is or will be within premises in the occupation or control of the person responsible for its installation; or

(c) in such other cases, as may be prescribed.

(3) The Appropriate Government shall, while granting approval under sub-section (1), impose such conditions (including conditions as to the ownership and operation of the line) as appear to it to be necessary.



(4) *The Appropriate Government may vary or revoke the approval at any time after the end of such period as may be stipulated in the approval granted by it.*

(5) *Where any tree standing or lying near an overhead line or where any structure or other object which has been placed or has fallen near an overhead line subsequent to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of electricity or the accessibility of any works, an Executive Magistrate or authority specified by the Appropriate Government may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he or it thinks fit.*

(6) *When disposing of an application under sub-section (5), an Executive Magistrate or authority specified under that sub-section shall, in the case of any tree in existence before the placing of the overhead line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.*

*Explanation.--For the purposes of this section, the expression "tree" shall be deemed to include any shrub, hedge, jungle growth or other plant."*³

C. Submissions:

5. According to Mr. Jayant Bhushan, learned Senior Counsel for the petitioner, the line from an inter-State transmission system to the petitioner's distribution sub-station is clearly "*in relation to any inter-State generation, transmission, trading or supply of electricity*", within the meaning of Section 2(5)(a)(ii) of the Act, and the appropriate Government in respect of such permission is, therefore, the Central Government. He drew my attention to Section 2(36) of the Act, which defines an "*inter-State transmission system*" ["ISTS"], to include any system for the conveyance of electricity by means of a main transmission line from the territory of one State to another State. In the context of the present case, Mr. Bhushan argued that Maithon is part of an ISTS, as it receives electricity from States



other than the State of West Bengal. He, therefore, contended that the proposed line from Maithon to Debipur – within the petitioner’s geographical area of distribution – is intended to transmit electricity received at the ISTS to the petitioner’s area of supply. He clarified that the proposed line is not intended to be used to supply electricity directly to the petitioner’s consumers, but only to connect the sub-station to the ISTS. Mr. Bhushan cited the judgment of the Supreme Court in *N.S. Nayak & Sons v. State of Goa*,⁴ wherein the Court held that the expression “*in relation to arbitral proceedings*” in Section 85(2)(a) of the Arbitration and Conciliation Act, 1996 could not be given a narrow meaning. Mr. Bhushan submitted that, similarly, the words “*in relation to*” used in Section 2(5)(a)(ii) of the Act deserve the widest interpretation.

6. Mr. Bhushan cited four orders of the CEA, in which the CEA has assumed jurisdiction in circumstances that the petitioner contends are similar to the present case. All four are cases of prior approval granted to various entities under Section 68 of the Act, for installations within the territory of one State:

- a. Approval dated 24.09.2018 to Alphanar Energy Private Limited, for a line from Kotda Madh to Bujh PS, both in the State of Gujarat.
- b. Approval dated 02.01.2018 granted to Essel Saurya Urja Company of Rajasthan Ltd. for a line from Pholadi - Pokhran to Bhadla, both in the State of Rajasthan.
- c. Approval dated 29.08.2018 to Green Infra Wind Energy Limited for a line from Roha to Bujh, both in the State of Gujarat.

³ Emphasis supplied.

⁴ (2003) 6 SCC 56.



d. Approval dated 19.12.2018 to Tata Power Renewable Energy Limited from Chhayan to Bhadla, both in the State of Rajasthan.

7. Mr. Bhushan submitted that the orders of CERC in connection with the petitioner's application for connectivity, are also consistent with the petitioner's argument. The petitioner's original application for connectivity from Maithon ISTS to Chalbapur was dealt with in an order dated 21.09.2012, wherein CERC noted the submission of the petitioner and the CTU in this regard, and came to the conclusion that the permission of the State Government for provision of connectivity was not required. Mr. Bhushan cited the following paragraphs of the CERC's decision in this regard:

"9. We have considered the submissions of the petitioner and the CTU. The only objection of CTU is that since the petitioner is a distribution licensee of West Bengal, it is a State embedded entity and therefore the approval/concurrence of WBERC and WBSETCL is required before granting of connectivity to the ISTS. It is the case of the petitioner that since it has no interface with the network of WBSETCL nor the proposed connectivity will have any interface with the State network, the concurrence/approval of WBSETCL is not considered necessary.

13. The petitioner is a distribution company in the state of West Bengal. Therefore, it fulfils the conditions of applicant under Connectivity Regulations and requester as per the CEA Technical Standards Regulations. The petitioner has filed an application for connectivity on 10.5.2011 with CTU for connectivity to the ISTS. In accordance with Regulation 8(2) of the Connectivity Regulations, it is the responsibility of the CTU to carry out necessary inter-connection study in consultation and through coordination with other agencies involved in the inter-State transmission system. The State Transmission Utility is required to be consulted only if the State network is likely to be used for the purpose of connectivity. The Connectivity Regulations leave no scope for consultation with the State Transmission Utility in the matter of grant of connectivity to the inter-State transmission system where the State network is not likely to be used. The petitioner through its application has sought to connect to ISTS directly without using the network of the STU. The sub-station as well as the associated line would be constructed by



DPSCL. The petitioner has submitted that as per the connectivity scheme proposed, there will be no interface with the network of WRSETCL. Therefore, we are of the view that contrary to the provisions of the Connectivity Regulations, CTU has been insisting on clearance/concurrence from WBSTCEL who in turn has advised the Petitioner to obtain investment approval from WBERC.

14. The purpose of Connectivity Regulations is to facilitate connectivity and long term access and medium term access to the inter-State transmission system. **The purpose of the regulations should not be defeated by requiring concurrence of the STU where it has not been provided for in the regulations.** In the process, considerable time has been lost and the prescribed time limit has not been complied with. In case of any difficulties, CTU should have approached the Commission for appropriate directions under proviso to clause (1) of Regulation 13 of the Connectivity Regulations. We are not pleased with the manner in which the matter has been handled by CTU and the Standing Committee on grant of connectivity.

15. We direct the CTU to expeditiously process the application of the petitioner for grant connectivity in accordance with Connectivity Regulations and convey its decision to the applicant within two weeks of receipt of this order.”⁵

8. Upon change of the petitioner’s application, incorporating connectivity from Maithon ISTS to Debipur, the same approach was ultimately adopted by the CERC, as reflected in an order dated 29.01.2018:

“20. The Commission was aware that Regulation 2(1)(b)(i) did not include a distribution licensee as applicant. The Commission therefore considered Regulation 2(25) of the Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 which defined the term 'requester' for connectivity to include 'distribution licensee'. **Accordingly, the Commission in its order dated 21.9.2012 had interpreted the provisions of Regulation 2(1)(b) of the Connectivity Regulations and the definition of the term 'requester' which included the distribution licensee and came to the conclusion that a distribution licensee cannot be denied connectivity to ISTS.** Further, the Commission considered the provisions of Regulation 12 of the Connectivity Regulations in the context where the consultation with STU is required. As per Regulation 12, STU is required to be consulted for long term access if the system of STU is used. **In the same analogy, the Commission decided that if the transmission system of STU is not used, there is no**

⁵ Emphasis supplied.



requirement for consultation with STU. Accordingly, the Commission allowed the prayer of the Petitioner and directed the CTU to grant connectivity. The Petitioner has made a fresh application for connectivity from the new location as advised by CTU and the said application for connectivity should have been considered by the CTU in the light of our decision in Petition NO.158/MP/2012. We would also like to place on record that the Commission is displeased with the manner in which the present case has been handled by the CTU.”⁶

9. Mr. Ripu Daman Bharadwaj, learned Central Government Standing Counsel, on the other hand, submitted that the petitioner’s proposed line has no connection with inter-State generation, transmission, trading or supply of electricity; and is merely intended to connect the petitioner’s distribution sub-station at Debipur to a source of supply within the same State. He submitted that the fact that the source of supply is one which, in turn, is part of an ISTS, is irrelevant to the determination of the “appropriate government” under Section 2(5) of the Act. According to Mr. Bharadwaj, if the petitioner’s interpretation of Section 2(5)(a)(ii) of the Act is accepted, it would mean that the Central Government is the appropriate government for all approvals under Section 68 of the Act.

10. Mr. Bharadwaj relied heavily upon an additional affidavit dated 29.11.2023 filed by the respondent, to contend that the petitioner’s proposed line cannot be considered as a transmission line at all, and certainly not a “dedicated transmission line” within the meaning of Section 2(16) of the Act. He drew my attention to a notification of the Government of West Bengal dated 23.05.2018, by which Rule 3 of the West Bengal Electricity [Prior Approval for Installation of Overhead Lines] Rules, 2007 was amended. According to Mr. Bharadwaj, the amendment has the effect of

⁶ Emphasis supplied.



exempting the petitioner from prior approval of the Government of West Bengal under Section 68(1) of the Act, upon certain conditions. Mr. Bharadwaj contends that this demonstrates that the State of West Bengal does exercise jurisdiction under Section 68 of the Act, in respect of the petitioner's lines.

D. Analysis

11. The only question which requires determination in the present case concerns the interpretation of the definition of “*appropriate government*” under Section 2(5)(a)(ii) of the Act. It is undisputed that Maithon, from which the petitioner seeks to draw electricity, is part of the inter-State transmission system. The issue, therefore, turns upon the question as to whether the proposed line, which connects Maithon ISTS to a distribution sub-station within the same State, is “*in relation to any inter-State generation, transmission, trading or supply of electricity*”.

12. The phrase “*in relation to,*” or words of similar import, appear in several statutes and subordinate legislation. The Supreme Court, in the interpretation of such phrases in the context of various Acts, has held that they are used in an expansive sense, and to convey a meaning of wide amplitude.

13. In *Doypack Systems (P) Ltd. v. Union of India*,⁷ the Supreme Court, while interpreting the phrase “*in relation to*” in Section 3 of Swadeshi Cotton Mills Co. Ltd. (Acquisition and Transfer of Undertakings) Act, 1986, noted as follows:

“48. *In view of the language used in the relevant provisions, it appears to us that Section 3 has two limbs: (i) textile undertakings;*

⁷ (1988) 2 SCC 299.



and (ii) right, title and interest of the company in relation to every such textile undertaking. The expression “textile undertaking” has been defined in Section 2(k) to mean the six textile undertakings of the company specified therein. The definition of the said expression in Section 2(k) is, however, subject to the opening words of the section which provide, “In this Act, unless the context otherwise requires”. In the context of the expression “textile undertakings” employed in Section 3(1) of the Act, Section 4(1) provides that the textile undertakings referred to in Section 3 shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges and all property, moveable and immovable, including lands, buildings, workshops, stores... investments and book debts pertaining to the textile undertakings and all rights and interests in or arising out of such property as are, immediately before the appointed day, in the ownership, possession, power or control of the company in relation to all six undertakings. **The expressions “pertaining to”, “in relation to” and “arising out of”, used in the deeming provision, are used in the expansive sense, as per decisions of courts, meanings found in standard dictionaries, and the principles of broad and liberal interpretation in consonance with Article 39(b) and (c) of the Constitution.**

49. The words “arising out of” have been used in the sense that it comprises purchase of shares and lands from income arising out of the Kanpur undertaking. **We are of the opinion that the words “pertaining to” and “in relation to” have the same wide meaning and have been used interchangeably for among other reasons, which may include avoidance of repetition of the same phrase in the same clause or sentence, a method followed in good drafting.** The word “pertain” is synonymous with the word “relate”, see Corpus Juris Secundum, Volume 17, page 693.

50. **The expression “in relation to” (so also “pertaining to”), is a very broad expression which presupposes another subject matter.** These are words of comprehensiveness which might have both a direct significance as well as an indirect significance depending on the context, see State Wakf Board v. Abdul Azeez [AIR 1968 Mad 79, 81, paras 8 and 10], following and approving Nita Charan Bagchi v. Suresh Chandra Paul [66 Cal WN 767] , Shyam Lal v. M. Shyamlal [AIR 1933 All 649] and Corpus Juris Secundum 621. Assuming that the investments in shares and in lands do not form part of the undertakings but are different subject matters, even then these would be brought within the purview of the vesting by reason of the above expressions. In this connection reference may be made to Corpus Juris Secundum at pages 620 and 621 where it is stated that the term



*“relate” is also defined as meaning to bring into association or connection with. It has been clearly mentioned that “relating to” has been held to be equivalent to or synonymous with as to “concerning with” and “pertaining to”. **The expression “pertaining to” is an expression of expansion and not of contraction.**”⁸*

14. In *Mansukhlal Dhanraj Jain v. Eknath Vithal Ogale*,⁹ while interpreting Section 41(1) of the Presidency Small Cause Courts Act, 1882, the Supreme Court noted the difference in the meaning of a phrase, when the words “relating to” are inserted. The Court observed that there is:

“14. a good deal of difference between the words “relating to the recovery of possession” on the one hand and the terminology “for recovery of possession of any immovable property”. The words ‘relating to’ are of wide import and can take in their sweep any suit in which the grievance is made that the defendant is threatening to illegally recover possession from the plaintiff-licensee.....”

15. In *Maharashtra Vidarbha Irrigation Development Corpn. v. Mahesh*,¹⁰ the Supreme Court has interpreted Section 24 (1)(a) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and emphasized the importance of interpreting the phrase “relating to” to be construed widely to give effect to legislative intent:

*“20. We begin by examining the phrasing of clause (a) to Section 24(1) of the 2013 Act. We would prefer to read the words “all the provisions relating to determination of compensation” in Section 24(1)(a) as including the period of limitation specified in Section 25 of the 2013 Act. **To elaborate, the word “all” and the expression “relating to” used in Section 25 are required to be given a wide meaning to ensnare the legislative intent.** The expressions “relating to” or “in relation to” are words of comprehensiveness which may have a direct as well as indirect significance depending on the context. [State Wakf Board v. Abdul Azeez Sahib, 1966 SCC OnLine*

⁸ Emphasis supplied.

⁹ (1995) 2 SCC 665.

¹⁰ (2022) 2 SCC 772.



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23. The expression “relating to” when used in legislation normally refers to “stand in some relation, to have bearing or concern, to pertain, to refer, to bring into association with or connection with”. [See judgment of Mitter, J. (para 308) in *Madhav Rao Jivaji Rao Scindia v. Union of India*, (1971) 1 SCC 85.] **Therefore, the expression “relating to” when used in legislation has to be construed to give effect to the legislative intent when required and necessary by giving an expansive and wider meaning.** Given this trend in interpretation, the words “all the provisions of this Act relating to the determination of compensation” must not be imputed a restricted understanding of the word “relating” only to the substantial provisions on calculation of compensation, that is, Sections 26 to 30 of the 2013 Act. Rather, the expression should be given an expansive meaning so as to include the provision on limitation period for calculation of compensation, that is, Section 25 of the 2013 Act.”¹¹

16. In *Amazon.Com NV Investment Holdings LLC v. Future Retail Ltd.*¹² the Supreme Court, in the context of the Arbitration and Conciliation Act, 1996, noted that it is “well settled that the expression “in relation to”, which occurs in both Section 9(1) and Section 17(1), is an expression which is comprehensive in nature, having both a direct as well as an indirect significance.”¹³

17. The import of these decisions is to suggest that the words, “in relation to,” impart an expansive meaning to the statutory provision. It does not then remain confined to the particular aspect expressly incorporated in the statute, but also to other connected or ancillary aspects.

18. Although the use of a phrase in different statutes may carry different meanings, I do not find any reason to depart from the usual wide

¹¹ Emphasis supplied.

¹² (2022) 1 SCC 209

¹³ *Id* at paragraph 62.



interpretation of the words “*in relation to*” in the context of the Act. There is no material on record to suggest that a different, or narrower, meaning was intended in the Act. I do not also find anything in the scheme of the Act, inconsistent with this interpretation. Therefore, I am of the view that the petitioner’s interpretation of Section 2(5)(a)(ii) deserves acceptance.

19. Adopting the analogy used by the Supreme Court in *Mansukhlal Dhanraj*,¹⁴ by use of the words “*in relation to*,” Section 2(5)(a)(ii) renders the Central Government as the “*appropriate government*,” so long as the line is connected with inter-State transmission. The position may well have been different, had the statute employed the word “*for*” in place of “*in relation to*.”

20. In the present case, the line in question is *only* for connecting the petitioner’s sub-station to a part of the ISTS. It is not intended for any other purpose – it does not connect to the petitioner’s ultimate consumers, or any other part of its distribution network. The sole fact that ISTS lies within the same State, does not persuade me to the contrary conclusion that it is not “*in relation to*” inter-State transmission.

21. I am unable to accept Mr. Bharadwaj’s argument that such a conclusion should be avoided because all electricity lines would then fall within Section 2(5)(a)(ii) of the Act. There are parts of the petitioner’s distribution system not connected to the inter-State transmission system in the way that the proposed line is connected. For example, part of the distribution system of the petitioner connects its network to its ultimate consumers – say from Debipur substation to a consumer’s premises. For

¹⁴ *Supra* note 9.



such lines, it may well be that the State Government would be the “appropriate government” as the line would not be “in relation to” an ISTS. For a similar reason, Mr. Bharadwaj’s reliance on the notification of the State of West Bengal dated 23.05.2018 is also misconceived. Quite apart from the fact that such a notification cannot control the proper interpretation of the statute, the notification may nevertheless be applicable to other lines established or proposed to be established by the petitioner. This judgment does not intend to decide any question other than the narrow one posed by facts of this case, i.e., whether a line which provides connectivity only between an ISTS and a distribution sub-station within the same State, is or is not “in relation to” inter-State transmission.

22. Mr. Bharadwaj sought to distinguish the four examples of exercise of jurisdiction by CEA, cited by Mr. Bhushan, on the ground that the permissions granted therein were for “dedicated transmission lines” under Section 2(16) of the Act. I am unable to appreciate as to how this distinction is dispositive of the matter. Section 2(5)(a)(ii) does not speak of “dedicated transmission lines” at all. The reasoning upon which the impugned order has been passed is only that the proposed line is to be constructed by a distribution licensee for the purpose of meeting the demand of their distribution area in the State of West Bengal, and does not indicate that the position would have been different if the line had been a “dedicated transmission line”.

23. For the aforesaid reasons, I hold that the petitioner’s application under Section 68 of the Act was liable to be considered by the Central Government, as the “appropriate government” under Section 2(5)(a)(ii) of the Act.



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E. Conclusion

24. In view of the above, the petition is allowed. The impugned order dated 14.12.2018 is set aside, and the petitioner's request for approval under Section 68 of the Act is remanded to CEA for expeditious consideration and disposal. There will be no order as to costs.

PRATEEK JALAN, J.

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