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

+ **W.P.(CRL) 1720/2022, CRL.M.A. 14984/2022**

BSES YAMUNA POWER LTD

..... Petitioner

Through: Mr. Buddy A. Ranganathan,
Mr. Anupam Verma, Mr. Nikhil Sharma and
Mr. Aditya Dhingra, Advocates.

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Ms. Rupali Bandhopadhyay, ASC for
State with Mr. Abhijeet Kumar, Advocate.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

24.04.2024

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1. This petition has been filed on behalf of the Petitioner under Articles 226 and 227 of the Constitution of India read with Section 482 Cr.P.C. seeking quashing of the order dated 30.07.2022 passed by learned Additional Sessions Judge, Special Judge, Electricity Court No. 2, Tis Hazari Courts in CC No. 323194/2016, whereby the Chief Executive Officer (CEO) of the Petitioner company was directed to appear in person on 02.08.2022. Basis of the order was the fact that the Authorized Representative (AR) of the complainant/Petitioner herein was unable to verify the name/particulars of the accused for his correct identification. The Court observed that in an earlier case also, the wrong name/particulars of the accused person were stated in the complaint and consequently wrong summons were issued by the Court. The Court was not satisfied with the replies given by the AR and found them to be evasive on the material



questions put by the Court. Noting that the queries put by the Court were grave in nature and processes issued by the Court have severe and far reaching consequences, Court directed the presence of the CEO on the ground that the Authority to institute and prosecute complaints on behalf of the complainant company was accorded to Jitender Shankar, General Manager (Legal/AR) of the Company by the CEO, by a Power of Attorney.

2. Learned counsel appearing on behalf of the Petitioner submits that the impugned order was kept in abeyance by this Court vide order dated 01.08.2022 and with passage of time has lost its effect to the extent of personal appearance of the CEO. However, the direction to summon the CEO in a judicial order can have an adverse impact on his career and in this light the direction deserves to be set aside as it is a settled law that personal presence of senior officials like a CEO should be directed by the Courts only in exceptional circumstances and where there are compelling reasons, which establish that without the presence of the senior official the proceedings cannot advance and/or he is personally responsible for any wrongful act or omission. Further, attention of the Court is drawn to an order dated 17.03.2023, which is a part of the compilation of documents handed over in Court, wherein the Court has recorded that Shahnawaz present in Court was identified as accused by Hitesh Rajput as well as the AR of the complainant company and therefore the concern of the Court pertaining to the identification of the accused is put to rest.

3. This petition was filed by the Petitioner company raising a limited grievance that CEO of the company was wrongly summoned by the learned Special Judge, Electricity Court on the premise that the AR of the Petitioner was unable to identify the accused. The impugned order was kept in



abeyance by this Court vide order dated 01.08.2022 and interim order has continued till date. Considering that the order was passed on 30.07.2022 and with passage of time the matter has proceeded further before the learned Special Judge and the accused has been identified by the AR of the Company, which was the genesis of the impugned order, this petition is disposed of setting aside order dated 30.07.2022 passed in CC No. 323194/2016 titled '*BYPL v. Shahnawaz*' to the extent the Court directed the personal presence of the CEO of the Petitioner on 02.08.2022. Question of law raised in the present petition with regard to the responsibilities and function of the CEO of the complainant company in the context of issues arising in the present complaint and/or the powers of the Court to summon the senior officials of the Department in the ordinary course, in the absence of exceptional circumstances or compelling reasons, is left open.

4. Pending application also stands disposed of.

JYOTI SINGH, J

APRIL 24, 2024/shivam