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

+ **W.P.(C) 9818/2024**

AVAADA ENERGY PRIVATE LIMITEDPetitioner

Through: Mr. Gopal Jain, Senior Advocate with
Mr. Shankh Sen Gupta, Mr. Abhishek
Kumar, Mr. Amit Ojha, Mr. Nived
Vvn and Mr. Karan Arora, Advs.

versus

CENTRAL TRANSMISSION UTILITY OF INDIA LIMITED

.....Respondent

Through: None.

CORAM:

**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR
KAURAV**

ORDER

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19.07.2024

CM APPL 40315/2024 (Exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 9818/2024 & CM APPL 40314/2024

1. The petitioner in the instant writ petition is aggrieved by the letter dated 15.07.2024 issued by the respondent and is therefore, praying for directions to restrain the respondent from taking any further precipitative actions.
2. Nobody appears on behalf of the respondent. However, learned Senior Counsel on behalf of the petitioner submits that a copy of the instant petition with all the annexures has already been supplied to the respondent and the



advance service compliance has been placed on record.

3. He further submits that the Central Electricity Regulatory Commission is non-functional in view of the decision of the Supreme Court in the case of ***State of Gujarat and Others v. Utility Users' Welfare Association and Others***¹. According to him, since the post of Member (Law) is lying vacant, the petitioner has filed the instant writ petition.

4. He further draws the attention of this Court to the orders dated 29.05.2024 and 05.06.2024 passed by this Court in W.P.(C) 8051/2024 titled as ***Altra Xergi Power Private Limited v. Central Transmission Utility of India Limited & Ors.*** to submit that almost similar controversy has been entertained by this Court and interim protection has been granted. The order dated 05.06.2024 passed in W.P.(C) 8051/2024 reads as under:-

"1. A perusal of the previous order dated 29.05.2024 shows that a coordinate Bench of this Court was prima facie of the view that the petitioner has made out a case for grant of interim protection. However, it was deemed apposite to hear the respondent no.2 since the allegation was that the concerned associated transmission system has not yet been commissioned by the respondent no.2. Accordingly, notice was issued to the respondent no.2.

2. The service report reveals that the respondent no.2 has been served, however, none appears for the respondent no.2.

3. After hearing the learned counsel for the parties, it appears that the matter requires consideration. List before the Roster Bench on 29.07.2024.

4. Since a Coordinate Bench has already found a prima facie case for grant of interim protection, it is directed that till the next date the respondents shall not take any coercive action against the petitioner."

5. However, looking at the averments made in the instant petition, the Court is of the *prima facie* opinion that though a slender part of cause of

¹ (2018) 6 SCC 21



action may arise in the territorial jurisdiction of this Court, however, the material, integral and essential part of cause of action does not arise within the jurisdiction of this Court.

6. At this stage, learned Senior Counsel for the petitioner seeks leave to withdraw the instant petition with liberty to approach the jurisdictional High Court.

7. Learned Senior Counsel, however, urges that the petitioner be protected for a period of 10 days without prejudice to the rights and contentions of the respondent in any manner whatsoever. He submits that the petitioner has approached this Court under a *bonafide* belief and if the Court does not grant any interim protection in the meantime, the petitioner will suffer irreparably.

8. In view of the aforesaid, liberty to approach the jurisdictional High Court, as prayed for, is granted.

9. Bearing in mind the submissions made by the petitioner, it is directed that the impugned order dated 15.07.2024 shall be kept in abeyance for a period of 10 days from today.

10. Needless to state that this Court has not dealt with controversy on merits and has only protected the petitioner in view of the submissions noted hereinabove.

11. The petition is accordingly dismissed as withdrawn alongwith pending application.

12. *Dasti.*

PURUSHAINdra KUMAR KAURAV, J

JULY 19, 2024/p'ma