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

+ W.P.(C) 13381/2024 & CM APPL. 55885/2024, CM APPL.
55886/2024, CM APPL. 55887/2024

PMI ELECTRO MOBILITY SOLUTIONS PVT. LTD.Petitioner

Through: Mr. Rajiv Nayar and Mr. Ashish
Dholakia, Senior Advocates with Mr.
Manu Nair, Mr. Saurav Seth, Mr.
Neelabh Shreesh, Mr. Aditya Singh,
Mr. Sunant Narang, Mr. Rahul Kumar
and Mr. Aayan Roy, Advocates.

versus

CONVERGENCE ENERGY SERVICES LIMITED & ANR.

.....Respondents

Through: Ms. Samdarshi Sanjay, Ms. Monika
Sharma and Mr. Ashish Kumar
Sharma, Advocates for R-1.
Mr. Vikram Jetly, CGSC with Ms.
Shreya Jetly, Advocate and Ms.
Taqvi, GP for R-2.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

23.09.2024

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1. This is the second round of litigation at the instance of Petitioner pertaining to the present cause of action. At the first instance, the Court, through a detailed judgment dated 24th July, 2024 in W.P.(C) 9061/2024, disposed of the writ petition by setting aside the impugned communication dated 05th July, 2024. Further, the Court directed Respondent No. 1 to “*pass a reasoned order in pursuance of the show cause notice dated 22.03.2024*”



after giving fresh opportunity of being heard to the petitioner which may also include the personal hearing". In terms of these directions, the Petitioner submitted a representation dated 09th August, 2024, which has now been decided by Respondent No. 1 through impugned order dated 6th September, 2024.

2. Mr. Rajiv Nayar, Senior Counsel for Petitioner, submits that Respondent No. 1 has proceeded to pass the impugned order without giving the Petitioner an opportunity of personal hearing. He states that the Petitioner had specifically requested a personal hearing, however, the same was not granted. Mr. Nayar argues that in view of this non-compliance of the specific directions of this Court, Respondent No. 1 must be directed to reconsider the Petitioner's representation.

3. On the other hand, Mr. Ashish Kumar Sharma, counsel for Respondent No. 1, emphasises that the judgment dated 24th July, 2024 specifically leaves it to the discretion of Respondent No. 1 to decide whether to afford the Petitioner a personal hearing or not, as borne out by the use of the expression 'may'. Moreover, he contends that the Petitioner did not request/ insist on any personal hearing, despite the fact that, through communication dated 02nd August, 2024, the Petitioner had been specifically intimated that *"should you require any clarification or assistance regarding this request, may please contact the undersigned."*

4. Nonetheless, Mr. Sharma states on instructions that, in order to rule out any ambiguity, Respondent No. 1 is willing to reconsider the Petitioner's representation after affording a personal hearing to the Petitioner.

5. In light of the above statement, the present petition is disposed of with following directions:



- 5.1. The impugned order dated 6th September, 2024 is set aside.
- 5.2. Respondent No. 1 shall reconsider the representation submitted by the Petitioner on 9th August, 2024. Prior to passing any order, Respondent No. 1 shall afford the Petitioner a personal hearing. For this purpose, Respondent No. 1 shall intimate the date of personal hearing to the Petitioner.
- 5.3. Thereafter, Respondent No. 1 shall pass a reasoned order pursuant to show cause notice dated 22nd March, 2024.
- 5.4. The Petitioner shall be at liberty to initiate appropriate legal proceedings, in case of altered circumstances, within 15 working days, in case of any adverse order passed by Respondent No.1. This liberty shall be subject to the Petitioner keeping the bank guarantee alive during this period, which shall not be encashed by Respondent No. 1 during this period.
6. It is clarified that decision of this Court to set aside the impugned order is purely for ensuring compliance of the principles of natural justice and the previous directions issued by this Court, and the same shall not construed as an expression of any opinion on the merits of the case. All rights and contentions of the parties are left open.
7. With the above directions, the present petition is disposed of, along with pending application.

SANJEEV NARULA, J

SEPTEMBER 23, 2024

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