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

+ **W.P.(C) 4149/2025 & CM APPL. 19293/2025**

AVAADA ENERGY PRIVATE LIMITED

.....Petitioner

Through: Mr. Nalin Kohli, Sr. Advocate with
Mr. Abhishek Kumar, Mr. Nived, Mr.
Karan Arora, Mr. Anshul Malik and
Mr. Ayushman, Advocates
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versus

**CENTRAL TRANSMISSION UTILITY OF INDIA LIMITED, &
ANR.**

.....Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

02.04.2025

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1. The present petition has been filed seeking issuance of directions to reinstate the in-principal connectivity granted to the petitioner by respondent no. 1 and to not take any coercive steps.
2. Learned Senior Counsel appearing for the petitioner submits that the petitioner had earlier approached this Court vide *W.P.(C) No. 9818/2024*, titled as *Avaada Energy Private Limited Versus Central Transmission Utility of India Limited*.
3. The said petition was dismissed as withdrawn, in the following terms:
“xxx xxx xxx
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**. 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 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.

xxx xxx xxx”

4. Upon withdrawal of the writ petition before this Court, the petitioner had approached the High Court of Madhya Pradesh, wherein, the said writ petition bearing no. 20387/2024 was disposed of vide order dated 13th September, 2024, in the following manner:

“Learned counsel for the petitioner submits that the Central Electricity Regulatory Commission is now functional, hence he may be permitted to withdraw this petition with liberty to approach this Commission to challenge the impugned order.

Prayer is allowed and the petition is dismissed as withdrawn with the liberty prayed for.

In case the appeal is preferred before the Commission within a period of 15 days from today along with an application for interim relief, then till consideration of the application for interim relief, the interim order dated 26.07.2024 passed in this petition shall remain in operation.”

5. By referring to the aforesaid orders, learned Senior Counsel appearing for the petitioner submits that the petitioner had approached this Court and



subsequently the High Court of Madhya Pradesh, since Central Electricity Regulatory Commission (“CERC”), was not functional.

6. He submits that after CERC became functional, a statutory petition was filed before the CERC, in terms of the liberty, as granted by the Madhya Pradesh High Court.

7. Learned Senior Counsel appearing for the petitioner submits that vide order dated 30th March, 2025, the CERC has dismissed the petition of the petitioner, against which the petitioner is in the process of filing an appeal before the Appellate Authority.

8. However, he submits that the present writ petition has been preferred as the petitioner is aggrieved by the arbitrary, discriminator and illegal action of the respondent no. 1, i.e., the Central Transmission Utility of India Limited.

9. He submits that all the other similarly placed generators, who are in the same field of generating energy as the petitioner, are being provided connectivity as per the Common Transmission System, for which bank guarantees are furnished at nominal rates. However, the petitioner, who is similarly situated, is being provided connectivity in the Associated Transmission System, on account of which, the petitioner is required to furnish bank guarantees of exorbitant amounts.

10. Thus, he submits that the conduct of respondent no.1 is highly arbitrary and discriminatory and warrants interference by this Court. The petitioner has been singled out. Since the issue of arbitrariness, discrimination and unreasonableness, in terms of Article 14 of the Constitution of India, would not be entertained by the Appellate Authority, therefore, the petitioner has filed the present writ petition.



11. This Court notes that the petitioner has already accepted the jurisdiction of High Court of Madhya Pradesh and had withdrawn its earlier writ petition. Consequently, this Court is of the view that the present writ petition also cannot be entertained by this Court.

12. At this stage, learned Senior Counsel appearing for the petitioner, on instructions, submits that he shall approach the High Court of Madhya Pradesh.

13. However, he submits that he may be given protection for a limited period to enable the petitioner to approach the said Court.

14. Accordingly, considering the submissions made before this Court, the petitioner is granted limited protection for a period of two weeks, whereby, the respondent no. 1 is restrained from taking any coercive or precipitative measures against the petitioner *qua* invocation of bank guarantee, deposited by the petitioner with the respondent no. 1.

15. Needless to state, this Court has not expressed any opinion on the merits of the case and has protected the petitioner, only in view of the submissions made before this Court.

16. The present petition is, accordingly, dismissed as withdrawn, along with the pending application, with the aforesaid limited protection.

17. *Dasti* under the signature of Court Master.

MINI PUSHKARNA, J

APRIL 2, 2025

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