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

+ **W.P.(C) 5340/2022 & CM APPLs.15969-15971/2022**

**BSES RAJDHANI POWER LIMITED & ANR. .... Petitioners**

Through: Mr.Sandeep Sethi, Sr. Adv. with  
Mr.Amit Kapur, Mr.Buddy A.  
Ranganadha, Mr.Nikhil Sharma,  
Mr.Rahul, Mr.Aditya Ajay and  
Ms.Manu Tiwari, Advs.

versus

**NORTHERN REGIONAL POWER COMMITTEE & ORS.**

..... Respondents

Through: Mr.Kirtiman Singh, Mr.Waize Ali  
Noor, Ms.Srirupa Nag, Ms.Kunjala  
Bhardwaj, Ms.Manmeet Kaur and  
Mr.Digvijay Yadav, Advs. for UOI.  
Mr.Rahul Mehra, Sr. Adv. with  
Mr.Satyakam, ASC, Mr.Chaitanya  
Gosain and Mr.Amanpreet Singh,  
Advs. for R-5.  
Mr.Sanjeev Mahajan, Mr.Sarthak  
Chiller, Advs. for R-7.

**CORAM:**

**HON'BLE MR. JUSTICE YASHWANT VARMA**

**ORDER**

% **30.03.2022**

**CM APPL. 15971/2022 (for exemption)**

Exemption allowed, subject to all just exceptions.

The application shall stand disposed of.

**W.P.(C) 5340/2022 & CM APPLs.15969-15970/2022**

1. Notice shall issue to the respondents. Since respondent Nos. 1 to 5 and 7 are duly represented by learned counsel, formal notice stands waived.

Let learned counsels obtain instructions and address submissions on the date fixed. *Dasti* notice shall issue to respondent Nos. 6 and 8. Mr. Singh appearing on advance notice and representing the Union respondents prays for the matter being put up on 1 April 2022 in order to enable him to obtain instructions.

2. BSES Rajdhani Power Limited, a DISCOM, has petitioned this Court challenging the order of 29 March 2022 passed by the Ministry of Power which alluding to a purported surrender of power generated by the Dadri-II Thermal Power Station by GNCTD has transferred the same to the State of Haryana.

3. Mr. Sethi, learned senior counsel appearing for the petitioners, has submitted that the aforesaid order is wholly without jurisdiction since no power inheres in the respondents to reallocate power that forms part of the allocation made in favour of the petitioner and duly approved by the Delhi Electricity Regulatory Commission. The recital in the impugned order of GNCTD having surrendered power is also disputed with learned counsel drawing the attention of the Court to its communication noticed in the order of 07 October 2021. The surrender which was contemplated in terms of that communication was with respect to the Dadri-I Thermal Power Plant alone. The attention of the Court is also drawn to the order of the Delhi Electricity Regulatory Commission of 30 March 2022 which categorically records that the Commission had not communicated any request to the Ministry of Power to either re-allocate or surrender the share of NCT from Dadri-II to other States. That order also takes note of the Power Purchase Agreement executed between the petitioning DISCOMS with NTPC which are valid up to 30 July 2035. The Court additionally takes note of the changed statutory

regime ushered in by virtue of the Electricity Act, 2003 and the jurisdictional and pivotal function assigned to the respective Electricity Regulatory Commissions and more particularly Section 86 of that Act.

4. Mr. Sethi submits that if the order impugned here were to be implemented, 23% of the populace of the National Capital would be deprived of power in the next 24 hours. The Court also takes notes of the averments made in paragraph 5 of the writ petition where the petitioners aver that the impugned order would, if permitted to operate, come into effect from 00:00 hours on Friday 1 April 2022. The resultant deficiency would have to be arranged before 10:00 A.M. on Thursday i.e. 31 March 2022. Matter requires consideration.

Till the next date of listing, there shall be stay of the impugned order of 29 March 2022.

List at the top of the board on 01.04.2022

*Dasti.*

**YASHWANT VARMA, J.**

**MARCH 30, 2022/bh**