

[2023 LiveLaw \(SC\) 476](#)

IN THE SUPREME COURT OF INDIA

DR. D.Y. CHANDRACHUD; C.JI., PAMIDIGHANTAM SRI NARASIMHA; J., K.V. VISWANATHAN; J.

Writ Petition(s)(Civil) No(s).467/2023; 19-05-2023

GOVERNMENT OF NCT OF DELHI *versus* OFFICE OF LIEUTENANT GOVERNOR OF NCT OF DELHI & ANR.

Electricity Act 2003; Section 84 (2) - Appointment of the Chairperson - The substantive part of sub-section (2) indicates that the State Government may appoint any person as the Chairperson from “amongst persons who is, or has been, a Judge of a High Court”. However, in terms of the proviso, an appointment under the sub-section has to be made only after consultation with the Chief Justice “of that High Court”. The expression “of that High Court” makes it abundantly clear that the consultation has to be made with the Chief Justice of the High Court from which the Judge or, as the case may be, the former Judge is drawn.

For Petitioner(s) Dr. Abhishekh Manu Singhvi, Sr. Adv. Mr. Shadan Farasat, AOR Mr. Amit Bhandari, Adv. Mr. Aman Sharma, Adv. Mr. Shourya Dasgupta, Adv. Mr. Aman Naqvi, Adv. Ms. Hrishika Jain, Adv. Ms. Natasha Maheshwari, Adv. Ms. Mreganka Kukreja, Adv. Ms. Warisha Farasat, Adv.

For Respondent(s) Mr. Mukul Rohtagi, Sr. Adv. Mr. Sanjay Jain, A.S.G. Mr. Shreekant Neelappa Terdal, AOR Mr. Abhinav Mukherjee, Adv. Ms. Bani Dikshit, Adv. Dr. N. Visakamurthy, Adv. Mr. Viresh B. Saharya, AOR Mr. Akshat Agarwal, Adv.

ORDER

1 Application for impleadment is allowed.

2 Section 84 of the Electricity Act 2003 provides for the appointment of the Chairperson and Members of the State Commission. Sub-section (2) of Section 84 is in the following terms:

“(2) Notwithstanding anything contained in sub-section (1), the State Government may appoint any person as the Chairperson from amongst persons who is, or has been, a Judge of a High Court:

PROVIDED that no appointment under this sub-section shall be made except after consultation with the Chief Justice of that High Court.”

3 The substantive part of sub-section (2) indicates that the State Government may appoint any person as the Chairperson from “amongst persons who is, or has been, a Judge of a High Court”. However, in terms of the proviso, an appointment under the sub-section has to be made only after consultation with the Chief Justice “of that High Court”.

4 The expression “of that High Court” makes it abundantly clear that the consultation has to be made with the Chief Justice of the High Court from which the Judge or, as the case may be, the former Judge is drawn. Where a sitting Judge has to be appointed, the consultation has to be with the Chief Justice of the High Court where the Judge is a sitting Judge. Likewise, where a Judge is a former Judge of the High Court, the consultation must be with the Chief Justice of the High Court where that Judge has previously served. Any other meaning will render the expression “of that High Court” redundant.

5 In view of the clear provisions contained in the proviso to Section 84(2) of the Electricity Act 2003, the appointment of the Chairperson of the Delhi Electricity Regulatory Commission shall be processed within a period of two weeks on the basis of the interpretation set out above.

6 The petition is disposed of in the above terms.

7 Pending application, if any, stands disposed of.