

April 2026

Delhi High Court sets aside Central Information Commission's orders declaring private power distribution companies in Delhi as public authorities under the Right to Information Act, 2005

The High Court of Delhi (“**Delhi HC**”), in *North Delhi Power Limited vs. Government of NCT of Delhi and Ors. and batch*¹, set aside the orders of the Central Information Commission (“**CIC**”) that had classified BSES Yamuna Power Limited (“**BYPL**”), BSES Rajdhani Power Limited (“**BRPL**”) (collectively “**BSES Discoms**”), and Tata Power Delhi Distribution Power Limited (“**TPDDL**”) (earlier known as North Delhi Power Limited) (collectively “**Discoms**”) as ‘public authorities’ under Section 2(h) of the Right to Information Act, 2005 (“**RTI Act**”). The Delhi HC directed the CIC to re-adjudicate the question afresh, after affording a full opportunity of hearing to all concerned parties and requested the CIC to decide the Second Appeal expeditiously, not beyond 6 (six) months. The ruling carries significant implications for private electricity distribution licensees across India.

JSA represented the BSES Discoms.

Brief facts

1. The Discoms were incorporated under the Companies Act, 1956, with Delhi Power Company Limited (a company fully owned by the Government of NCT of Delhi) having 49% equity. The remaining 51% equity and day-to-day management control of BRPL and BYPL vested in Reliance Infrastructure Limited, and that of TPDDL vested in Tata Power Company Limited.
2. On March 16, 2006, CIC passed an order holding that the Discoms constituted ‘public authorities’ within the meaning of Section 2(h) of the RTI Act, thereby subjecting them to full compliance obligations under that statute.
3. This order was challenged before the Delhi HC. By order dated September 21, 2006, the Delhi HC set aside the CIC’s order dated March 16, 2006 on the ground that Discoms had not been afforded an opportunity of hearing. The matters were remanded to the CIC for reconsideration.
4. After the remand, CIC passed a fresh Order dated November 30, 2006, again holding the Discoms to be “public authorities” under the RTI Act. The Discoms challenged this Order by filing W.P.(C) Nos. 542, 543 and 544 of 2007 before the Delhi HC. By Order dated January 23, 2007, the Delhi HC stayed the CIC’s November 30, 2006 order. By Order dated February 28, 2014 the stay was made absolute.
5. During the pendency of the Writ Petitions, CIC approached the Hon’ble Supreme Court by filing Transfer Petition (C) Nos. 812-824 of 2020 titled *CIC v. BRPL and Ors.*, seeking consolidation of all analogous cases from various High

¹ (W.P.(C) Nos. 542, 543 and 544 of 2007 and W.P.(C) No. 6759 of 2007) (decided on March 20, 2026)

Courts before the Supreme Court. However, Supreme Court dismissed that Petitions by Order dated February 04, 2022, observing that the question of whether the entities are ‘public authorities’ is a mixed question of fact and law and cannot be decided analogously across all cases.

6. During the pendency of the Writ Petitions, the Delhi HC as well as the Karnataka High Court has remanded cases concerning Mumbai International Airport Ltd. and Bangalore International Airport Ltd., respectively, to the respective Information Commissions for fresh adjudication in light of the findings of the Hon’ble Supreme Court in *Thalappalam Service Co-operative Bank Limited and Ors. vs. State of Kerala and Ors.*².

Issue

The central issue in all the Writ Petitions was whether the Discoms constitute ‘public authorities’ within the meaning of Section 2(h) of the RTI Act?

Findings and analysis

1. The Delhi HC observed that the question of whether the petitioners qualify as “public authorities” under Section 2(h) of the RTI Act involves adjudication of both facts and law. Since the CIC is vested with the powers of a Civil Court for appreciation of evidence under Section 18(3) of the RTI Act, the appropriate forum for this determination is CIC.
2. The Delhi HC found no justifiable reason to depart from the approach of the Delhi HC and Karnataka High Court in earlier analogous proceedings concerning Mumbai International Airport Limited and Bangalore International Airport Limited respectively.
3. The Delhi HC, while remanding the matter, set out in detail the legal framework governing the definition of “public authority” under Section 2(h) of the RTI Act. The Delhi HC extracted and relied on the following precedents, which would guide the CIC in its fresh adjudication.
4. The Delhi HC accordingly set aside the CIC Orders dated November 30, 2006 and directed CIC to re-adjudicate the question of public authority status afresh, after affording a full opportunity of hearing to all parties, including the intervenors representing the employees’ unions of the Discoms. The CIC was requested to dispose of the matter expeditiously, not later than 6 (six) months from the date of receipt of the order.

Conclusion

The judgment is of significant consequence for private distribution licensees across India. CIC orders which had sought to subject BSES Discoms to all obligations under the RTI Act, notwithstanding that management control vests with a private majority shareholder and their operations are self-funded, have now been set aside. By doing so, the Delhi HC has ensured that the far-reaching question of whether privately managed distribution companies are “public authorities” is determined by CIC with proper evidence.

² (2013)16 SCC 82

Electricity and Power Practice

JSA is the leading national practice in the power sector – conventional and non-conventional. JSA provides legal services at all stages of the value chain in the sector - across the spectrum of contractual, commercial, policy, regulatory and legal issues. We represent clients in all segments: generation, transmission, distribution and trading. JSA serves its clients by transaction-specific integrated teams across various locations and practice areas (Banking & Finance, Mergers & Acquisition and Private Equity, Projects and project related contracting, Dispute Resolution, Taxation, Regulatory proceedings and Policy advisory).

JSA has been regularly engaged in; (a) providing policy advice to Governments of Bangladesh and Maldives, as also the Government of India besides various Indian states. Also, JSA partners have presented expert testimony to the Parliamentary Standing Committees and the Forum of Regulators on challenges faced by the power sector and proposed legislative and policy changes, development financial institutions like the World Bank, the Asian Development Bank, DfID, USAID regulatory authorities and industry bodies; (b) advising project developers, investors, suppliers and contractors on commercial / transactional issues and all aspects of licensing, market structures, competition, performance standards and tariffs; (c) advising financial institutions and borrowers in relation to financing transactions; (d) Advising clients on sustainable development issues like clean development mechanism and environmental compliances; and (e) specialised dispute resolution.

This Prism has been prepared by the following attorneys, who were also involved in the matter:



Amit Kapur
Partner



Anupam Varma
Partner



Aditya Gupta
Partner



Yash Srivastava
Associate



19 Practices and
40 Ranked Lawyers



8 Ranked Practices,
22 Ranked Lawyers



15 Practices and
20 Ranked Lawyers



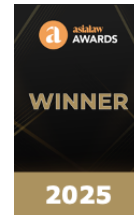
13 Practices and
49 Ranked Lawyers



20 Practices and
24 Ranked Lawyers



8 Practices and
10 Ranked Lawyers
Highly Recommended in 5 Cities



**Regional Legal Expertise Awards
(APAC) of the Year**
Energy Firm Competition/
Antitrust Firm



Among Best Overall
Law Firms in India and
14 Ranked Practices



Recognised in World's 100 best
competition practices of 2026



Ranked Among Top 5 Law Firms in
India for ESG Practice

9 winning Deals in
IBLJ Deals of the Year

15 A List Lawyers in
IBLJ A-List – 2026



Asia M&A Ranking
2025 – Tier 1

For more details, please contact km@jsalaw.com

www.jsalaw.com



Ahmedabad | Bengaluru | Chennai | Gurugram | Hyderabad | Mumbai | New Delhi



This Prism is not an advertisement or any form of solicitation and should not be construed as such. This Prism has been prepared for general information purposes only. Nothing in this Prism constitutes professional advice or a legal opinion. You should obtain appropriate professional advice before making any business, legal or other decisions. JSA and the authors of this Prism disclaim all and any liability to any person who takes any decision based on this publication.

Copyright © 2026 JSA | all rights reserved