

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

+ W.P.(C) 816/2008

ZILE SINGH TANWAR & CO. & ANR Petitioner

Through Counsel for Mr. A. Maitri, Advocate.

versus

MCD & ANR

..... Respondents

Through Mr. Sanjeev Sabharwal, Standing
Counsel & Mr. Alok Singh, Advocate for MCD.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% 18.02.2008

1. The petitioner was awarded contract for resurfacing of internal roads of Block-D, New Friends Colony on 13th July, 2007 and for resurfacing of peripheral roads in Sri Niwasपुरी, Central Zone on 1st August, 2007. It is admitted that the petitioner did not perform the said contract. In fact, no resurfacing work was started pursuant to the said work orders.
2. My attention is drawn to letter dated 3rd September, 2007 written by the petitioner to the respondent-MCD. In this letter it is stated that the work could not be started due to rainy season as the same was not suitable for road work. It is also stated that this was the main reason why the

work could not be started. However, in another letter dated 26th October, 2007 it was stated that the work for resurfacing of the road could not be started as the hot mix plant belonging to the petitioner had been sealed by Haryana State Pollution Control Board by their letter dated 21st August, 2007. In this regard, my attention has been drawn to letter dated 21st August, 2007 issued by Haryana State Pollution Control Board. The said letter states that the hot mix plant of the petitioner was not operated after closure of the unit by the Regional Officer on 10th April, 2007.

3. It was the responsibility of the petitioner to comply with the pollution norms in terms of The Air (Prevention and Control of Pollution) Act, 1981. If the petitioner did not comply with the terms of the said Act and his hot mix plant was closed, the respondent-MCD cannot be blamed for the same and the said reason cannot be a good ground not to comply with the work orders. It was for the petitioner to find alternative source and meet his contractual obligations. Failure to comply with the statutory requirements of The Air (Prevention and Control of Pollution) Act, 1981, can hardly be a justification or ground not to do resurfacing of roads under the contract.
4. In view of the above, I do not find any merit in the present writ petition and the same is accordingly dismissed.

SANJIV KHANNA, J.

FEBRUARY 18, 2008

VKR/P