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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 909/2013, C.M. APPL.19144/2013, 19145/2013 & 19146/2013

M/S RAJINDER KUMAR GUPTA Appellant
Through: Ms. Anusuya Salwan with Mr.Kunal
Kohli, Advocates

versus

EAST DELHI MUNICIPAL CORPORATION & ANR
..... Respondents

Through: Mr.Atul Kumar and Mr.Amit Kumar,
Advocates for R-1-2

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER
% **02.12.2013**

The appellant had approached this Court, even though several grounds urged in support of the appeal pertains to the correctness of an order black-listing the appellant/petitioner pursuant to the show cause notice of 27th August, 2013 issued by the East Delhi Municipal Corporation. The appellant had approached this Court in writ proceedings being WP(C) No.7278/2013. The specific grievance on which the present appeal has been filed is that even while issuing

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notice, the Court did not make any interim order.

The learned counsel for the respondent/Corporation is present, he waives notice and produces the relevant records. With the consent of the parties, the matter is heard finally.

The appellant was awarded certain works which were to be completed in time bound manner. The respondent/Corporation alleged that the appellant was indulging in repeated defaults and not completing the assigned task in accordance with the specific time agreed upon by the parties. The concerned Executive Engineer issued a show cause notice on 27.8.2013 proposing disciplinary action against the appellant. The show cause notice required submission of a reply within a week. The appellant urged that notice was in fact received on 29.7.2013 and reply sent on 4.9.2013. (The 13 paragraphs reply has been filed as annexure P-13 to the appeal).

The relevant notings of the respondent indicate that the order of debarring/black-listing the appellant was on the assumption that no reply was made to the authorities. This is contrary to the judicial record, in the writ petition as well as in the present appeal, evidently, the appellant replied to the show cause notice on 4.9.2013.

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Furthermore, this Court is of the opinion that whether reply was received or not, having regard to the drastic consequence in the present instance, the black-listing order being operative for five years, the concerned enlistment authority was under an obligation to indicate brief reasons for the black-listing orders. It is not only that the individual concerned who is likely to be adversely effected should be given opportunity to represent against the order. The order visiting drastic consequence such as black-listing must be premised some reasons. Since the respondents' proposed to debar the appellant for five years, it was incumbent upon them to spell out if any breaches were of such severe magnitude as to warrant a drastic adverse order.

In the circumstances of this case, the respondent/Corporation appears to have proceeded on the assumption that the failure to the respondent's show cause itself was a reason to debar the appellant.

In view of the above, the impugned order directing black-listing of the appellant is hereby set aside /quashed. The respondent/Delhi Municipal Corporation through its appropriate authority i.e. Enlistment Authority, shall proceed to pass appropriate orders on the show cause notice dated 27.8.2013 (Annexure A-12 to the appeal),

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after duly considering the appellant's reply dated 4.9.2013 (Annexure A-13 to the appeal), preferably within three weeks from today. The order shall be directly communicated to the appellant. In the event of the said order being adversely effected, it is open to the appellant to file appropriate remedies in accordance with law.

It is submitted by the learned counsel for the parties that WP(C) No. 7278/2013 has been rendered infructuous.

In view of the above discussion, LPA 909/2013 is allowed in the above terms and WP(C) No.7278/2013 is accordingly disposed off.

The Registry is directed to cancel the date scheduled i.e. 6th March, 2014.

Dasti to both the parties.

Sd/-
S. RAVINDRA BHAT, J

Sd/-
NAJMI WAZIRI, J

DECEMBER 02, 2013
RN



True Copy
Pratap