

THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 10.07.2014

+ **W.P.(C) 4187/2014 & CM 8400/2014**

M/S BRITANNIA INDUSTRIES LIMITED

..... Petitioner

versus

GOVERNMENT OF THE NCT OF DELHI & ANR. Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Rajiv Nayar, Sr. Adv. with Ms Fareha A Khan
and Ms N. Kohli.

For the Respondents: Ms Purnima Maheshwari.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J (DICTATED IN OPEN COURT)

1. Issue notice. Ms Purnima Maheshwari, Advocate accepts notice.
2. The matter was listed on 09.07.2014 and on that occasion the learned advocate for the respondent had sought time to take instructions.
3. With the consent of parties, the matter is taken up for hearing.
4. By the present writ petition the petitioner company *inter alia* calls into question the communications dated 26.06.2014 issued by respondent No.2 to the petitioner as well as four of its contractors (hereinafter collectively referred to as the 'impugned communications'). By the impugned communications, respondent No.2 has revoked the Contract Labour License of four contractors of the petitioner whose workers are responsible for carrying on certain vital functions for the petitioner. It is

submitted by the learned counsel for the petitioner that as a result of the revocation of licences its entire operations have come to a standstill and as such the petitioner is prejudiced by the action of the respondents.

5. Briefly stated the facts are as under:-

5.1. The petitioner was issued a show cause noticed dated 12.06.2014 whereby the respondent alleged that the order dated 4/7-3-2014 issued with respect to payment of wages to the employees through ECS/cheques and for uploading the details of category of workmen employed and other details on the website, had been violated. It was alleged that the said order had been communicated through publication and also conveyed to the petitioner in a meeting held with the respondents on 02.05.2014. It was further alleged that since the petitioner and its contractors had failed to comply with the order of 4/7-03-2014, it was directed to show cause why its registration should not be cancelled or revoked for non-compliance of the said order. A hearing, affording the petitioner an opportunity to be heard, was also scheduled on 20.06.2014 at 3.00 p.m. It is stated that similar notices had also been issued to the four contractors employed by the petitioner, albeit on different dates.

5.2. The petitioner contends that it had no knowledge of the order dated 4/7-3-2014 and the directions contained therein. It is also denied that the contents of the order were communicated to the petitioner in any meeting with the labour authorities, as alleged. The petitioner further complains that show cause notice dated 12.06.2014 was received by the petitioner only in the evening of 21.06.2014 and as a consequence of which the petitioner could not be represented at the hearing scheduled on 20.06.2014. The

petitioner asserts that it had immediately taken steps to ensure that the order dated 4/7-3-2014 was fully complied with and as of now the petitioner and its contractors have complied with the directions as contained in the said order. An intimation of compliance had also been communicated to the labour authorities. Despite the same, the respondents have proceeded and issued the impugned communications of 26.06.2014. This is disputed by the learned counsel for the respondent who states that the communication regarding compliance had been received subsequent to the impugned communications revoking the Contract Labour Licences.

5.3. It is contended by the learned counsel for the respondent that although the case of the petitioner can be considered for relief but as far as the contractors are concerned, they are not parties in the present proceedings. And, as they have been issued separate show cause notices and orders, it would be incumbent upon the contractors to apply afresh or avail of the statutory remedy to appeal against revocation of licences. She further asserts that the petitioner cannot be aggrieved by revocation of labour licences of its contractors, and the impugned communications dated 26.06.2014 which directs that the petitioner should not employ any contract labour without a valid registration certificate, is only an advisory and not a direction. Accordingly, no penal action would be taken by the respondents against the petitioner for violation of the impugned communications dated 26.06.2014, however, if any consequences under the statute follow, the same would have to be borne by the petitioner.

6. I have heard the learned counsel for the parties.

7. At the outset, I must state that copying the impugned

communications revoking the licence of the petitioner's contractors, to the petitioner is not a mere formality or an advisory as is contended but is in order to the petitioner to notice that the labour licence of its contractors has been cancelled and neither the said contractor or contract labour should be employed. Violation of the directions contained in the impugned communications, would obviously entail consequences. The contention that the petitioner is not aggrieved and therefore cannot maintain the present petition is also not sustainable. It is undisputable that the contractors employed by the petitioner are vital for its functioning as has been stated in the writ petition. Therefore, the petitioner would be entitled to impugn the orders if they are flawed or otherwise illegal.

8. It is apparent that the impugned communications of 26.06.2014 have been issued on account of non-compliance of the order dated 4/7-3-2014. There is a considerable dispute whether the said order had been well publicised or otherwise communicated to the petitioner. Indisputably, the petitioner has also been denied an opportunity of being heard inasmuch as the show cause notice dated 12.06.2014 was served on the petitioner after the scheduled date of hearing. It is also relevant to refer to the show cause notice which expressly states that the violation of the order dated 4/7-3-2014 would entail *“revocations and penal action against the employers and contractor will be initiated”*. In view of the consequences of non-compliance with the order dated 4/7-3-2014 and the fact that the petitioner was not afforded an opportunity to be heard before such action was taken against the contractors, it is appropriate that the impugned communication be set aside and the petitioner as well as the contractors be given an

opportunity to present their case before any adverse order is passed. It is not necessary to make a distinction between an adverse order against the contractors and the petitioner as the petitioner would, undoubtedly, be prejudiced if revocation order is passed against any one of its existing contractors. I am also persuaded to set aside the impugned communications, in view of the statement made by the petitioner that it has complied with the order dated 4/7.03.2014 immediately on becoming aware of the said order.

9. Accordingly, the impugned communications are set aside. I direct that respondent No.2 to hold a hearing on 21.07.2014 at 3.00 p.m. and the petitioner shall ensure that its representative as well as the duly authorized representatives of its contractors are present at the hearing in order to make their representations/submissions. All contentions available to the parties (including the contractors) are kept open. The petitioner and/or contractors shall further satisfy respondent No.2 that the order dated 4/7-3-2014 has been fully complied with. The writ petition is disposed of in the above terms. No order as to costs.

10. *Dasti* under the signature of the Court Master.

VIBHU BAKHRU, J

JULY 10, 2014

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