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

Date of Decision: November 03, 2015

+ **W.P.(C) 10302/2015 & C.M. 25641-42/2015**

S. MAITHANI Petitioner

Through: Mr. V.P. Singh, Advocate

versus

CHAIRMAN-CUM-MANAGING DIRECTOR, CEMENT
CORPORATION OF INDIA LTD. & ORS.Respondents

Through: Mr. K. K. Rai, Senior Advocate,
with Mr. S.K. Pandey and Mr.
Anshul Rai, Advocates for
respondents No.1 and 2 with Mr.
Ajay Kumar Sharma, Company
Secretary, Cement Corporation of
India Ltd.-respondent

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

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(ORAL)

Petitioner is aggrieved by exhibition of document Nos. 5, 7, 8 & 9 on the ground that the attested copies of these documents have been exhibited whereas the originals have not been produced and so, it is asserted on behalf of petitioner that Inquiry Officer is biased against petitioner. A Representation (*Annexure A-22*) seeking change of Inquiry Officer was made by petitioner to respondent-Corporation on 23rd April, 2015, which stands rejected vide impugned order of 1st September, 2015 (*Annexure A-26*). Petitioner has also made Representation (*Annexure A-23*) to the Appellate Authority to respondent-Corporation on 27th August,

2015.

Learned counsel for petitioner submits that the Representation (*Annexure A-23*) to the Appellate Authority has been summarily rejected by the Chairman-Managing Director (CMD) of respondent-Corporation in the capacity of Chairman of the Appellate Authority, but the Representation (*Annexure A-23*) ought to have been considered by the Board of respondent-Corporation.

During the course of hearing, learned counsel for petitioner had placed on record copy of inquiry proceedings containing examination and cross-examination of witnesses i.e. MW-1 & MW-2 to submit that the inquiry proceedings are not being conducted in consonance with the principles of natural justice, as inadmissible documents are taken on record.

Learned senior counsel for respondent-Corporation informs that the Inquiry proceedings stand concluded on 16th October, 2015 and the parties have been directed to file their respective written brief. He points out that the Representation made by petitioner to the Appellate Authority does not lie as the impugned orders (*Annexures A-24 & A-26*) are not appealable.

Upon hearing and on perusal of the Representation (*Annexure A-22*), impugned orders (*Annexure A-24 & A-26*) as well as material on record, I find that merely because some documents have been taken on record would not justify the change of Inquiry Officer, as I find that the objection of petitioner has been duly noted in the inquiry proceedings and the said objection has been over-ruled. Whether over-ruling of petitioner's objection is justified or not cannot be pre-judged amidst

inquiry proceedings. On a bare perusal of the copy of deposition of the witnesses as well as impugned order, I find that petitioner's prayer for change of Inquiry Officer is not at all justified. The question of admissibility/ inadmissibility of documents placed on record during inquiry proceedings is left open to be considered at the final stage in the inquiry proceedings.

Since the Inquiry proceedings stand virtually completed, therefore, petitioner's prayer for change of Inquiry Officer cannot be entertained while invoking the writ jurisdiction of this Court. As already observed above, there is no justification for change of Inquiry Officer in the circumstances of this case.

With above said observations, this petition and applications are disposed of while not commenting on the merits of the case, lest it may prejudice either side in inquiry proceedings.

(SUNIL GAUR)
JUDGE

NOVEMBER 03, 2015

sk/r