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

+ W.P.(C) 196/2016 & CM APPL. 809/2016

M/S MOTT MACDONALD PRIVATE LTD. Petitioner

Through Mr. Rajshekhar Rao with Mr. K.
Harshvardhan, Advocates and
Mr. Roger King, AR

versus

UNION OF INDIA

..... Respondent
Through Mr. Rajesh Gogna, CGSC with
Mr. Sumit Rajaput, Govt. Pleader.Date of Decision : 13th January, 2016**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****J U D G M E N T****MANMOHAN, J: (Oral)**

1. Present writ petition has been filed seeking quashing of communication dated 17th December, 2015, whereby respondent blacklisted the petitioner from participating in any future work relating to National Highways and other centrally sponsored schemes for a period of one year.
2. Learned counsel for the petitioner states that neither sufficient notice nor an opportunity of hearing was given to the petitioner inasmuch as in the show cause notice it was not mentioned that petitioner could be blacklisted/debarred if its response was not found to be satisfactory. In support of his submission, he relies upon judgment of Supreme Court in

***Gorkha Security Services Vs. Government (NCT of Delhi) and Others,
(2014) 9 SCC 105.***

3. Keeping in view the aforesaid, learned standing counsel for respondent on instruction wishes to withdraw the communication dated 17th December, 2015 with liberty to issue a fresh show cause notice to the petitioner within two weeks specifically stating that petitioner could be debarred/blacklisted, if its response was not found to be satisfactory.

4. Accordingly, the communication dated 17th December, 2015 is set aside as withdrawn and respondent is given liberty to issue a fresh show cause notice of debarment/blacklisting. It is directed that, in the event petitioner participates in any future tender issued by Ministry of Road Transport and Highways till the fresh show cause notice is decided, the petitioner shall disclose in its bid that a show cause notice for debarment/blacklisting is pending against it. It is also directed that if the petitioner is subsequently debarred/ blacklisted, then the tenders submitted by it shall be considered as non-responsive. However, this is without prejudice to petitioner's right to file appropriate proceedings to challenge any adverse order that may be passed against it in response to the new show cause notice.

5. It is further directed that the withdrawal of communication dated 17th December, 2015 as well as subsequent show cause notice shall also be communicated in the same manner as was the impugned order.

6. With the aforesaid directions and observations, present writ petition and application stand disposed of.

MANMOHAN, J

JANUARY 13, 2016/rn