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

+ W.P.(C) 3638/2016 & CM APPL. 15555-15556/2016

M/S KORE SECURITY SERVICES Petitioner

Through Mr. Anil Sapra, Sr.Adv. with
Mr. Vinay Kumar Bhasin and
Mr. Siddharth Handa, Advocates

versus

DELHI TOURISM & TRANSPORTATION
DEVELOPMENT COPROATION LTD (DTTDC) Respondent

Through Mr. S.B. Upadhyay, Senior Advocate
with Mr. Abhimanyu Garg and
Mr. Param Mishra, Advocates

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Date of Decision: 29th April, 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 challenging the letter dated 22nd April, 2016 whereby the respondent-DTTDC has terminated its contract with the petitioner on the ground of immoral exploitation of its staff and unjust enrichment.

2. Mr. Anil Sapra, learned senior counsel for the petitioner submits that the impugned termination order is in violation of principles of natural justice inasmuch as in the show cause notice dated 26th March, 2016 there was no mention of particular penalty/action which was proposed to be taken by the

respondent-DTTDC. In support of his submission he relies upon judgment in *Gorkha Security Services Vs. Government (NCT of Delhi) and Others, (2014) 9 SCC 105* wherein it has been held as under:-

“22. The High Court has simply stated that the purpose of show-cause notice is primarily to enable the noticee to meet the grounds on which the action is proposed against him. No doubt, the High Court is justified to this extent. However, it is equally important to mention as to what would be the consequence if the noticee does not satisfactorily meet the grounds on which an action is proposed. To put it otherwise, we are of the opinion that in order to fulfil the requirements of principles of natural justice, a show-cause notice should meet the following two requirements viz:

(i) The material/grounds to be stated which according to the department necessitates an action;

(ii) Particular penalty/action which is proposed to be taken. It is this second requirement which the High Court has failed to omit.

We may hasten to add that even if it is not specifically mentioned in the show-cause notice but it can clearly and safely be discerned from the reading thereof, that would be sufficient to meet this requirement.

3. On the other hand, Mr. S.B. Upadhyay, learned senior counsel for respondent-DTTDC, who appears on advance notice, states that prior to the termination of the security agency contract, petitioner had been issued as many as thirteen notices. He also points out that in the arbitration petition filed under Section 9 of the Arbitration and Conciliation Act, 1996, the petitioner has itself admitted that the termination by respondent-DTTDC was at the request of the petitioner.

4. Mr. S.B. Upadhyay further states that the petitioner has already invoked the arbitration clause by filing a claim for Rs. 5 crores. Consequently, according to him, once the petitioner has quantified his damages, it cannot seek stay of termination of the contract.

5. Mr. Upadhyay points out that respondent has already engaged the services of another security agency on 25th April, 2016.

6. Having heard learned senior counsel for the parties and having perused the paper book, this Court finds that upon receipt of a show cause notice dated 26th March, 2016 the petitioner sent two letters dated 29th March, 2016 wherein it requested for clearance of outstanding amount and also asked the respondent to issue a rebuttal of the alleged defamation publication in various newspapers within three days, failing which petitioner's letter was directed to be treated as a notice of termination w.e.f. 30th April, 2016. Subsequently, in the Section 9 petition filed under Arbitration and Conciliation Act, 1996, on 26th April, 2016, it was once again emphatically stated by the petitioner that termination of the contract had been at its request. The relevant portion of Section 9 petition is reproduced hereinbelow:-

“17. That the respondent no. 1 on 22.04.2016 vide letter No. F (Ct)/13114/05/2013/DTTDC/PF-I/1191R&I) whereby the respondent no. 1 terminated the contract as per the request by the applicant with immediate effect (22.04.2016) with wrong, false and concocted allegations without clearing the outstanding arrears of the applicant which shows the mala fide intentions of the officials of the respondent no. 1.”

7. Since it is the petitioner's own case that the termination of the contract has been done at its instance, this Court is of the view that petitioner cannot now advance the argument that termination of the contract is bad in law on

the ground of being violative of principles of natural justice.

8. Moreover, as the petitioner has already quantified its damages/ compensation amount, this Court is of the opinion that petitioner is not entitled to any stay of termination.

9. Consequently, present writ petition and applications are dismissed.

10. However, it is clarified that observations made in the present petition are only in the context of the prayer for quashing of impugned termination notice on the ground of violation of principles of natural justice. Petitioner is at liberty to raise other challenges and seek other remedies in accordance with law.

APRIL 29, 2016
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MANMOHAN, J

