

\$~153

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

+ **W.P.(C) 5037/2016 & CM No.21050/2016**

PRADEEP AGARWAL

..... Petitioner

Through Mr. Nikhil Singhvi with Mr. Nikita
Pandey and Mr. Aubert Sebastian,
Advocates.

versus

**DEPARTMENT OF ELECTRONICS & INFORMATION
TECHNOLOGY AND ANR**

..... Respondents

Through Ms. Monika Arora, CGSC for
respondent No.1.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **05.10.2016**

The petitioner impugns order dated 23.02.2016, whereby, the petitioner has been debarred from carrying out further enrolment activities, as also the reply dated 04.04.2016, whereby, the respondents reiterated the stand taken on 23.02.2016.

It is contended that the petitioner has been incorrectly debarred and the entire premise of the order is incorrect. It is further contended that no show cause notice was issued to the petitioner prior to the issuance of the said order.

Learned counsel for the respondent admits that prior to the passing of the order dated 23.02.2016, a show cause notice was not issued. However, she contends that the order was passed in view of

the facts of the case which necessitated an order of debarment. It is contended that the petitioner was put to notice about the breaches committed by the petitioner. However, no show cause notice threatening or contemplating of debarment was ever issued.

Since it is an admitted position that a show cause notice was not given to the petitioner prior to the passing of the impugned order debarring the petitioner, there are civil consequences which follow from the order of debarment.

It has been held by the Supreme Court in *M/s. Erusian Equipment & Chemicals Ltd. vs. State of West Bengal And Another* : (1975) 1 SCC 70 that any party which is blacklisted is entitled to a notice to be heard before its name is put on the blacklist.

The petitioner was entitled to a show cause notice and an opportunity of hearing prior to the debarment. On this ground alone, the impugned order is liable to be set aside.

Accordingly, the impugned order dated 23.03.2016 is set aside.

The respondents are directed to issue a show cause notice to the petitioner of the action contemplated to be taken. The petitioner shall be entitled to an opportunity to file a response to the show cause notice. In case the petitioner desires a personal hearing, the petitioner shall so indicate in its reply and the respondent shall, accordingly, grant a personal hearing to the petitioner. The respondent shall thereafter pass a speaking order.

It is clarified that since the impugned order has been quashed on the ground of non-compliance of principle of natural justice, I am not examining the merits of the contentions of the petitioner or the respondents. The authorities will be free to dispose of the show cause notice in accordance with law without being influenced by anything stated in this order.

The writ petition is, accordingly, disposed of.

Dasti under the signatures of the Court Master.

SANJEEV SACHDEVA, J

OCTOBER 05, 2016
st