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

% Judgment delivered on: 10.08.2016

+ W.P.(C) 6548/2016

M/S VISHAL ENTERPRISES Petitioner

versus

UNION OF INDIA AND ORS Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Shrey Chathly and Ms. Bandana Grover, Adv.

For the Respondents : Ms. Barkha Babbar with Mr. Akhil Suri, Advocates for
UOI

**CORAM:-
HON'BLE MR JUSTICE SANJEEV SACHDEVA**

JUDGMENT

10.08.2016

SANJEEV SACHDEVA, J. (ORAL)

CM No. 26857/2016 in WP(C) 6548/2016

1. The petitioner seeks a mandamus thereby directing the respondents to lift the ban on the petitioner/remove the remark 'No, Slow Progress' against the name of the petitioner in the Work Load Return annexed as Appendix-A to the letter dated 04.04.2016.

2. It is contended by the learned counsel for the petitioner that the petitioner has not been served with any letter dated 04.04.2016, however, has been able to obtain Appendix-A which is available on the website of the respondent wherein in front of the name of the petitioner in the

Column “*Whether considered capable of handling more works*”, the respondents have stated ‘No, Slow Progress’.

3. It is contended that the petitioner was awarded contract for addition/alteration to SMQS at Air Force Station, Chandinagar. It is contended by the learned counsel for petitioner that though the work to be executed by the petitioner was far less but in the schedule of quantities it was incorrectly shown having much greater quantity than which could be executed at site. It is contended that the petitioner duly intimated the respondents, that further work could not be executed as there was error in the Bill of Quantities. He submits that the work was completed and completion report furnished. However, the respondents failed to measure the work and continued to state that the work had not been completed.

4. Learned counsel for the petitioner submits that without issuance of any show cause notice or hearing and the petitioner has been virtually debarred by endorsing the remark that the petitioner is not capable of handling more work. He further submits that the effect of the said remark in Work Load Return is that the petitioner is being denied contracts and the bids submitted are being rejected during technical evaluation on the ground of the endorsement in the Work Load Return as ‘No, Slow Progress’.

5. Learned counsel relies on the decision of ‘**Prakash Atlanta JV & Ors. Vs. National Highways Authority of India & Ors.**’ 169(2010) DLT 664 to contend that where the orders having adverse civil consequences are passed without following the principles of natural justice, the same

cannot be sustained.

6. Learned counsel for the respondents draws attention to certain notices whereby the petitioner was requested to show cause as to why the adverse remarks be not put in the Work Load Return and as to why action for cancellation of the contract be not initiated.

7. Learned Counsel for the Respondent, however, conceded that the contract has not been cancelled till date and no personal hearing was granted to the petitioner. She further conceded that till date no formal order has been passed on the Show Cause Notices.

8. Learned counsel, however, submits that the competent authority i.e. Commander Works Engineer (AF), Military Engineering Services, Palam, Delhi Cantt., New Delhi shall afford a hearing to the petitioner and take a decision on the show cause notices issued to the petitioner.

9. Accordingly, the writ petition is disposed of with the direction that the petitioner shall appear before Commander Works Engineer (AF) on 24.08.2016 at 12.00 (noon) in the first instance. The Commander Works Engineer (AF) shall hear the petitioner on the said date or on such other date(s), he may deem fit. The Commander Works Engineer (AF) shall pass a speaking order within a period of four weeks.

10. Till the passing of the speaking order by the Commander Works Engineer (AF), the operation of the endorsement 'No, Slow Progress' in the Work Load Return shall remain suspended. The respondent shall also remove the said Work Load Return from their website.

11. The petitioner would be at liberty to take all such remedies as may be available in law, in case the petitioner is aggrieved by the decision of the Commander Works Engineer (AF).

12. *Dasti* under the signatures of the Court Master.

SANJEEV SACHDEVA, J

AUGUST 10, 2016

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