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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 9632/2016
M/S L.R. SHARMA & CO.

..... Petitioner

Through Mr.J.K.Mittal and Mr.Rajveer Singh,
Advocates.

versus

SOUTH DELHI MUNICIPAL CORPORATION (SDMC)

..... Respondent

Through Ms.Mini Pushkarana, Standing
Counsel for SDMC along with
Ms.Anushruti, Ms.Namrata Mukim
and Ms.Vasundhara Nayyar,
Advocates along with Mr.Yogesh
Bhardwaj, LJO, R.P.Cell, SDMC.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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19.10.2016

C.M. No.38543/2016 (exemption)

Exemption is allowed subject to just exceptions. Application disposed of.

W.P.(C) 9632/2016 & C.M. No.38542/2016

Petitioner is aggrieved by the order dated 22.9.2015 passed by the SDMC wherein for the third time the petitioner stood blacklisted. He has been blacklisted for the reason that he failed to pay the outstanding monthly dues. His submission is that the monthly licence fee has been enhanced six times over; as per the tender conditions the enhancement could be only 10%. This enhancement could also be

after renewal of the licence which was to be renewed after every one year.

The case of the petitioner is that he had been allotted the aforementioned two parking sites (at South Extension Part-II, New Delhi and M-Block, Greater Kailash-I, New Delhi) on 08.01.2014. Against the tender conditions the licence fee was enhanced not by 10% but six times over which was a huge constraint upon the petitioner who could not pay this abnormal licence fee. He accordingly sent a request letter seeking to surrender the aforementioned parking sites. This request letter is dated 05.11.2014. This letter was not considered by the Department in the correct perspective; the Department was of the view that the petitioner was liable to pay enhanced licence fee. Since the petitioner could not pay this amount he was blacklisted.

Petitioner was aggrieved by his first blacklisting order (28.03.2015) which was assailed in WP(C) No.4825/2015. This order was set aside on 18.5.2015 and the Department was directed to reconsider the entire representation of the petitioner. This representation was answered by the Department on 17.7.2015. The petitioner was aggrieved as his case was that his inspection report was not considered. He filed WP(C) No.9240/2015 which was disposed of by this Court on 19.8.2016 directing the Department to consider the aforementioned inspection report dated 29.6.2015. A speaking order was directed to be passed by the Competent Authority. The Competent Authority has now passed the impugned order which is dated 22.9.2016 (which has been written as 22.9.2015; learned counsel for Department concedes this and states that this is due to a

typographical error and the date of the order should be read as 22.9.2016). Petitioner is aggrieved by the fact that his case has not been considered and his request letter sent way back on 05.11.2014 seeking surrender of his sales has not been accepted; his submission is that as per the tender conditions his request for surrender should be accepted as his whole case is bordered on the premise that the six times enhancement of the licence fee was against the tender conditions; the tender conditions provide only an enhancement of 10%; these aspects have not been considered by the Department.

Accordingly, the body of the writ petition will be treated as a representation of the petitioner to the Department. The same shall be now answered in accordance with law within a period of six weeks from the date of the receipt of this order. The question as to whether the petitioner could have been blacklisted without a serving a notice upon him shall also be considered by the Department.

The petitioner shall appear before the Competent Authority for a hearing on 27.10.2016.

Petition disposed of in the above terms.

INDERMEET KAUR, J

OCTOBER 19, 2016
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