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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 02.12.2016

+ W.P.(C) 11366/2016

**CONSULTING ENGINEERING SERVICES
(INDIA) PVT. LTD.**

..... Petitioner

versus

MINISTRY OF DEFENCE

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr Rajshekhar Rao with Ms. Zehra Khan
For the Respondent : Mr Gaurang Kanth, Ms. Biji Rajesh and Mr Pushkar Taimni.
Mr Abhilesh Shukla (Director Contract), Ministry of Defence.

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

J U D G M E N T

SANJEEV SACHDEVA, J (ORAL)

CM No.44608/2016 (exemption)

Exemption is allowed subject to all just exceptions.

CM No.44607/2016 (leave to file lengthy synopsis)

1. This is an application seeking leave to file lengthy synopsis.
2. For the reasons stated in the application, the application is allowed.
The lengthy synopsis is taken on record.

W.P.(C) 11366/2016 & CM No.44606/2016 (for ex-parte relief)

1. The petitioner impugns order dated 24.10.2016, whereby, the petitioner firm has been banned from further issuance of tenders for a period of three years with immediate effect and also with a caution that appropriate liquidated damages, as per contract conditions, are to be imposed on the petitioner firm.

2. Learned counsel for the petitioner submits that the purported lapse on the part of the petitioner is of the year 2007-08. It is contended that the alleged lapse on the part of the petitioner is that the petitioner overlooked certain payments to the contractor whereby the contractor availed extra payment from the respondent. It is contended that, as per the information of the petitioner, there were disputes raised by the contractor which were settled through the process of arbitration and it is not possible that the respondent could not have noticed this alleged lapse in the arbitration proceedings with the contractor. It is contended that stale and time barred issue is being raised by the respondent for passing the impugned order.

3. Learned counsel for the petitioner further submits that neither the petitioner was given any show cause notice informing that any action of blacklisting was contemplated, nor was the petitioner heard prior to the passing of the impugned order.

4. Issue notice. Notice is accepted by the learned counsel appearing for the respondents.

5. Learned counsel for the respondents submits that to overcome any technical defect in the impugned order, the respondent would issue a fresh

show cause notice and grant the petitioner an opportunity of hearing and then take a decision afresh.

6. In view of the above, the impugned order dated 24.10.2016 is set aside. The respondents are at liberty to proceed in accordance with law.

7. It is clarified that this Court has not examined the contentions of either of the parties on merits and has set aside the order dated 24.10.2016 solely on the ground that show cause notice was not issued and the respondents have agreed to issue a show cause notice and grant a hearing to the petitioner.

8. Needless to state that in case any order is passed against the petitioner, the petitioner would be at liberty to take appropriate remedies in accordance with law.

The writ petition is, accordingly, disposed of.

Dasti under the signatures of the Court Master.

SANJEEV SACHDEVA, J

DECEMBER 02, 2016
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