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

+ **W.P. (C) 2933/2017, CM APPL.12816-12817/2017**

SARVESH SECURITY SERVICES PVT. LTD. Petitioner
Through: Mr. Divij Soni, proxy counsel.

versus

OFFICER IN CHARGE (GENERAL BRANCH) Respondent
Through: Mr. Sanjeev Garg, proxy counsel.
Mr. Vinod Kr. Thukral, Administrative Officer (Judl.),
General Branch, District Courts, Saket.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

31.03.2017

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Pursuant to the notice issued by the Court Mr. Vinod Kumar Thukral, Administrative Officer (Judl.), General Branch, District Courts, Saket is present. He has produced the copy of the Minutes of meeting of the e-tendering Committee dated 01.03.2017 which had decided to disqualify the present petitioner, i.e., M/s Sarvesh Security Services Pvt. Ltd. The rationale for this decision appears to be the fact that the petitioner was facing a black listing order and that notice under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("EPF Act") and proceedings consequent thereto are pending.

A reading of the decision, copy of which has been produced and is hereby taken on the record - indicates that the Committee was made aware and took into consideration the fact that the operation of the black listing order was stayed on 26.03.2014 by this Court in appropriate proceedings

and that the stay order continues to be in operation. As far as Section 7A proceedings are concerned, whilst no doubt, notice has been issued, the fact remains that till date there has been no adjudication or final order resulting in any penal or adverse consequence that could have led the Committee to disqualify the petitioner.

Relevant portion of the decision of the Committee is extracted below: -

“The correspondence received from EPFO reveals that the matter regarding payment of PF is pending adjudication with EPFAT. M/s Sarvesh Security Services Pvt. Ltd. further defaulted in making the compliance and an enquiry under Section 7A of EPF and MP Act, 1952 for determination of PF dues was initiated for the period from 06/2012 to 08/2015.

After deliberations and keeping in view the fact that the order of DSIIDC regarding blacklisting M/s Sarvesh Security Service Pvt. Ltd. is still in force and the company defaulted in making the compliance and further an enquiry under Section 7A of EPF and MP Act, 1952 for determination of PF dues was initiated for the period from 06/2012 to 08/2015 by the EPFO, Committee recommends that M/s Sarvesh Security Service Pvt. Ltd. may not be considered for the financial bid. The Committee also recommends that the following bidders may be considered for opening of financial bids.

- a. M/s Orion Security Solution Pvt. Ltd.*
- b. M/s Well Protect Manpower Services Pvt. Ltd.*
- c. M/s Sudarshan Facilities Pvt. Ltd.*
- d. M/s Rakshak Securitas Pvt. Ltd.*
- e. M/s Security and Intelligence Services (India) Ltd.”*

This Court has considered the materials on record and the submissions of the parties through their representatives. The Committee was aware of the order of stay which continues to operate in respect of the black listing order. The effect of the stay is that the black listing order has been in effect kept under suspension.

So far as the notice under the EPF Act is concerned, although it could lead to penal consequences, yet that is in the realm of probability; the Committee itself noticed that the matter is “pending adjudication with EPFAT”. In these circumstances, without a final or definitive order, the Committee could not have kept the petitioner’s bid out of consideration.

In the circumstances, the decision of the e-tendering Committee to disqualify the petitioner is hereby quashed. The Committee is directed to take into consideration the petitioner’s bid and re-evaluate the technical and financial bid of all concerned parties, i.e., the other bidders who were found to have been qualified for consideration.

The writ petition is allowed in the above terms.

Consequential effect by way of an amendment to the orders placed online shall be given with a note that this is done pursuant to the order of this Court.

Order dasti.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

MARCH 31, 2017

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