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

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Judgment delivered on: 24.05.2017

+ W.P.(C) 4576/2017

M/S PREMIUM SERUMS & VACCINES PVT. LTD. Petitioner

versus

MEDICAL SUPERINTENDENT SAFDARJUNG HOSPITAL
& ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. S.N. Gupta with Mr. Atul Kharbanda, Advocates.

For the Respondents : Mr. Kirtimaan Singh with Mr. Vikramaditya Singh, Mr. Waize Ali Nor and Mr. Prateek Dhanda, Advocates for respondent Nos.1 and 2..

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

24.05.2017

SANJEEV SACHDEVA, J. (ORAL)

CM No.19966/2017 (exemption)

Exemption is allowed subject to all just exceptions.

W.P.(C) 4576/2017 & CM No.19967/2017 (for interim order)

1. The petitioner, by the present petition , seeks a mandamus to the respondent Nos.1 and 2 to issue a show cause notice to respondent No.3 and initiate blacklisting process against the respondent No.3.

Further, it is prayed that the respondent Nos.1 and 2 be directed not to consider the tender of the respondent No.3 pending consideration of the show cause notice.

2. Learned counsel appearing for the respondent Nos.1 and 2 submits that the respondent No.3 was earlier blacklisted by an order dated 16.08.2016. The said respondent filed a writ petition impugning the said blacklisting order dated 16.08.2016 being WP(C) 8460/2016 titled ***Vins Bioproducts & Anr. vs. Medical Superintendent & Ors..*** He submits that the respondent No.3 had, *inter alia*, challenged the blacklisting on the ground of non-compliance of the principles of natural justice.

3. Learned counsel appearing for the respondent Nos.1 and 2 further submits that in view of the said technical objections, the Authorities had decided to withdraw the blacklisting order and to grant an opportunity of hearing to the respondent No.3. He submits that a show cause notice has already been issued to the respondent No.3 and proceedings are pending.

4. Learned counsel for the respondent Nos.1 and 2, under instructions, submits that on conclusion of the proceedings consequent to the show cause notice, appropriate orders in accordance with law would be passed and, in case, respondent No.3 is blacklisted, the consequences thereof shall follow.

5. In view of the above submissions of the learned counsel for the

respondent Nos.1 and 2, in my view, the present petition would not be maintainable.

6. The prayer of the petitioner seeking a mandamus to the respondents to issue a show cause notice already stands complied with. Further direction is sought that pending consideration of the show cause notice, the bid of the respondent No.3 be not considered. In my view, such a prayer cannot be granted as it is for the respondent authorities to evaluate a bid of a tenderor. Mere pendency of a complaint or issuance of show cause notice, *ipso facto*, does not disentitle a party to submit a bid. It is only after a party is blacklisted or debarred that consequences thereof follow.

7. It is for the respondent authorities to consider a bid and to ascertain whether any bid submitted is technically compliant or not. Such a consideration can happen in view of the tender conditions. In my view prayer B of the petition cannot be granted in these circumstances at this stage.

8. In view of the above, the present petition is not maintainable. The same is, accordingly, dismissed.

SANJEEV SACHDEVA, J

MAY 24, 2017
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