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

+ W.P.(C) 6244/2017

M/S. CHAUHAN ASSOCIATES

..... Petitioner

Through: Mr Amit Chauhan and Mr Lovedeep
Gaur, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr Kirtiman Singh, CGSC with Mr
Waize Ali Noor and Mr Prateek
Dhanda, Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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25.07.2017

CM No. 25912/2017

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 6244/2017

3. The petitioner has filed the present petition, *inter alia*, praying for an order setting aside the notification dated 30.05.2017, whereby it was recommended that the petitioner was not capable of handling additional works. The petitioner states that the said recommendation is palpably erroneous as the petitioner has been executing the works awarded to it efficiently. According to the petitioner, the handing over of site for the works awarded to the petitioner was significantly delayed. In addition, there were also other delays including on account of delay in approval of the raw

materials (which the petitioner claims was only approved in 2017). The learned counsel for the petitioner submits that the recommendations is in the nature of blacklisting as pursuant thereof, the petitioner is being excluded from consideration for award of other works.

4. Mr Kirtiman Singh, learned counsel appearing for the respondents disputes that the negative recommendation was not warranted. He further states, on instructions, that the notice put up - which makes a negative recommendation - is only the result of a periodic quarterly review that was carried out earlier. And, if the petitioner satisfies the respondents that its performance is up to the mark, the respondents would take the necessary action of removing the recommendation as indicated in the notice dated 30.05.2017.

5. The notification dated 30.05.2017 is only an intra departmental circular recommending that additional works not be awarded to the petitioner as the petitioner's progress in executing the current contract awarded to the petitioner, is slow. Admittedly, the execution of the works are behind schedule; however the petitioner alleges that the same is not on account of the petitioner but on account of delay on the part of the respondents . This Court is not inclined to examine the question as to who is responsible for the delay in execution of the project. The said question is a disputed question of fact and it is not apposite to examine the same in these proceedings; however, it would be open for the petitioner to make a detailed representation to the respondents and to establish that the petitioner has been working efficiently and has the resources to undertake further works. As stated by Mr Kirtiman Singh, the respondents would examine the same

objectively and with an open mind and consider removing the negative recommendation against the name of the petitioner in the next review, which is scheduled in the month of September 2017. If the petitioner is aggrieved by this decision, it would be open for the petitioner to take such steps as available in law.

6. The petition is disposed of with the above directions.

JULY 25, 2017
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VIBHU BAKHRU, J