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

+ **W.P.(C) 9327/2017**

SARVESH SECURITY SERVICES PVT. LTD. Petitioner

Through: Mr Arjun Mitra, Ms Sneha Singh, Ms
Aastha Jain and Mr Rishi Ahuja,
Advocates.

versus

**MEDICAL SUPERINTENDENT, BABU JAGJIVAN
RAM MEMORIAL HOSPITAL Respondent**

Through: Mr Ramesh Singh, Standing counsel
with Mr Sandeepan Pathak,
Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% 25.10.2017

CM No.38117/2017

1. Allowed, subject to all just exceptions.

W.P.(C) 9327/2017 & CM No.38116/2017

2. Issue notice. The learned counsel for the respondent accepts notice.

3. With the consent of the parties, the petition is taken up for final hearing.

4. The petitioner has filed the present petition, *inter alia*, impugning a communication dated 13.10.2017, whereby the petitioner's contract for providing security services was terminated.

5. The principal ground urged by the petitioner is that the said letter terminating the services had been issued without any Show-Cause-Notice

and without giving opportunity to the petitioner to be heard.

6. The petitioner was awarded the contract for providing security services by a letter dated 16.06.2017. This was stop gap arrangement and the term of the contract was only 13 days; that is, from 17.06.2017 to 30.06.2017.

7. Thereafter, the said term of the contract was extended from time to time. By an Office Order dated 27.09.2017, the term of the certain contracts was extended to 31.12.2017 and all the concerned entities were directed to finalise and award tenders in respect of the services by 30.11.2017. In terms of the said Office Order dated 27.09.2017, the stop gap arrangement with various service providers is to continue only till the tender is finalised and in any case not beyond 31.12.2017.

8. The contract with the petitioner has been terminated with effect from 07.11.2017 purportedly on the basis of certain complaints made by the guards employed by the petitioner. Admittedly, the petitioner was not issued any Show-Cause-Notice prior to issuing the impugned termination letter and the petitioner was not afforded any opportunity to address the allegations made against him.

9. Mr Ramesh Singh, learned counsel appearing for the respondent submitted that there was no public law element involved in the present petition and thus, no interference with the impugned letter of termination is warranted in these proceedings. He relied on the decision of a Co-ordinate Bench of this Court in ***North West Sales and Marketing Ltd. and Ors. v. IFCI Ltd. W.P. (C) No. 5958/2015*** decided on 04.04.2016, wherein this Court had noticed the settled principles regarding judicial review under Article 226 of the Constitution of India.

10. There can be no quarrel as to principle set out in the aforesaid judgment. However, the contention that there is no element of public law involved in the present petition is not persuasive. The question involved in the present petition is whether the State could terminate a contract without prior notice; without informing the contractor the reasons thereof; and without providing him an opportunity to meet the allegations made against him.

11. It is trite law that the State cannot act capriciously or in an arbitrary and/or unreasonable manner. All actions of the State - whether in administrative matters or in contractual matters - must not fall foul of Article 14 of the Constitution of India. The principles of natural justice and the duty to act fairly have been read into Article 14 of the Constitution of India. Although it is correct that the discretion vested with the respondent cannot be interfered with and this Court will not supplant its opinion with that of the concerned authority; however, it is necessary to ensure that the decision making process is not flawed, unreasonable or arbitrary. It is necessary that a party against whom an adverse decision is contemplated on the basis of certain allegations, is provided adequate opportunity to meet the allegations made against him. This is a rudimentary principle and the standard of fairness requires that the State follows it in its actions.

12. In view of the above, the impugned communication is set aside. The respondent is at liberty to issue a Show-Cause-Notice and take an informed decision after affording the petitioner an opportunity to meet the allegations made against it.

13. Mr. Singh, learned counsel for the respondent states that a Show-Cause-Notice will be issued to the petitioner immediately. In the event, a

Show-Cause-Notice is issued, the respondent shall provide the petitioner at least three working days time to respond to the same. The respondent is at liberty to take informed decision after giving the petitioner an opportunity to be heard.

14. The petition alongwith the application is disposed of.

15. Order *dasti*.

VIBHU BAKHRU, J

OCTOBER 25, 2017

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