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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 9628/2017 and CM APPL. 39205-39206/2017

M/S BATHLA TRADING COMPANY Petitioner
Through Mr. Nitin Saluja and Mr. Arav
Kapoor, Advs.

versus

SOUTH DELHI MUNICIPAL CORPORATION Respondent
Through Mr. Mukesh Gupta, Standing Counsel
with Mr. Rajesh Kumar, Asstt.
Commissioner, R.P. Cell, SDMC.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **31.10.2017**

Petitioner approached this Court seeking the reliefs *inter alia* of quashing of communications dated 22.8.2017 and 23.10.2017.

The petitioner was granted the licence of the parking site by the respondent-SDMC at District Centre, Janak Puri and the dispute is the outcome of the digging work carried out by Delhi Jal Board in and around the parking site, so allotted to the petitioner. In sum and substance, it is the case of the petitioner that on account of digging work carried out by Delhi Jal Board, the parking site was unusable and therefore, the petitioner was entitled to remissions in the licence fee. For the purpose, it comes to be pointed out, the petitioner had made representations to the SDMC vide communications dated 6.1.2017 and 13.1.2017. It is alleged that the respondent-SDMC, did

not even advert to the said representations and without giving an opportunity of hearing, not only took unilateral and under-estimated remission decision vide communications dated 22.8.2017, it also illegally cancelled the allotment of parking site vide its order dated 16.10.2017, followed by an illegal black-listing order dated 23.10.2017.

During the course of hearing, Mr. Gupta, Id. Sanding Counsel for SDMC does not dispute the factum of the receipt of communications/representations dated 6.1.2017 and 13.1.2017. Mr. Gupta also does not dispute the factum of the receipt of the response to the show cause notice dated 25.9.2017, the copy whereof, is Annexure P-21 at running page 200 of the instant petition. Black-listing order dated 23.10.2017 also does not advert to it, is equally conceded to by Mr. Gupta.

At this stage, Mr. Gupta, Id. Standing Counsel for the respondent-SDMC comes forward to submit that the instant petition can be considered as a representation to decide the representations dated 6.1.2017 and 13.1.2017 as regards the plea of remissions on account of digging work carried out by Delhi Jal Board in or around the allotted parking site to the petitioner. He also submits that even the black-listing order shall be passed afresh taking into account the plea of the petitioner and a fresh speaking order shall be passed giving an opportunity of hearing to the petitioner. Id. counsel for the petitioner submits that he has instructions to concede to that effect. It does not require elaboration that either of the orders dated 22.8.2017 and 23.10.2017, does not advert to any of the representations of the

petitioner for remissions or the response given by the petitioner to the show cause notice issued for black-listing. It is violative of the fundamental principles of natural justice. During the course of hearing, it has also come to be stated by the ld. counsel for the petitioner that the respondent-SDMC has already invoked the Bank Guarantee and received the monies thereunder.

In view of the foregoing, it is directed that the respondent shall treat the instant petition as the representation of the petitioner and decide the representations of the petitioner for remissions afresh and thereafter, if, the respondent-SDMC finds that the petitioner is required to be black-listed, it shall consider the response of the petitioner to the show cause notice dated 6.10.2017 and affording an opportunity of hearing to the petitioner, pass a fresh order of black-listing, if, so required.

As mutually agreed, the competent authority of the respondent-SDMC shall give the first hearing on 7th November, 2017 at 3.30 p.m. at 25th Floor, Dr. Shyama Prasad Mukherjee Civic Centre, Minto Road, Delhi -110002.

Dasti under the signatures of the Court Master.

A. K. CHAWLA, J

OCTOBER 31, 2017

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