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

+ W.P.(C) 9821/2017

ANIL GUPTA

..... Petitioner

Through: Mr Sameer Nandwani, Advocate.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Ms Suparna Srivastava and Ms
Alinda Bhowal, Advocates for R-1 &
R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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07.11.2017

CM No. 39979/2017

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

W.P.(C) 9821/2017 and CM No. 39978/2017

3. Issue notice. The learned counsel for the respondents accepts notice.
4. The petitioner has filed the present petition, *inter alia*, impugning the notice dated 13.07.2012 (hereafter 'the impugned notice') suspending the petitioner's empanelment with DAVP (Directorate of Advertisement & Visual Publicity). The petitioner also impugns an order dated 15.10.2014 (hereafter 'the impugned order') confirming that the said order of

suspension would be subject to the investigation and charge-sheet by CBI.

5. The petitioner states that in view of the aforesaid orders, the petitioner's empanelment with DAVP has remained suspended for more than five years. The petitioner claims that he has recently become aware of the "Revised Norms of Outdoor Publicity" which is available on the website of DAVP. The petitioner claims that in terms of the said norms, any agency which has indulged in unethical practice or anti national activities or convicted by Court of Law for such activities, would be debarred/blacklisted for a period of three years.

6. The relevant extract of the Revised Norms of Outdoor Publicity are set out below:

"(E) DEBARING OF AGENCIES:

1) In case there is a failure or delay on the part of the agency to implement the job to DAVP's specifications, the agency is liable to be penalized on the basis of the recommendation of the Liquidated Damages Committee (LDC). The decision of DAVP will be final and binding on this subject.

2) If in the opinion of the LDC, an empanelled Agency has failed in completing the job assigned to it by DAVP, such an agency may be debarred/blacklisted for up to three years. The decision of DAVP will be final and binding on all.

3) Similarly, in case an agency indulged in unethical practice or anti national activities or convicted by Court of Law for such activities, such Agency shall also be debarred/Blacklisted for a period upto three years."

7. The petitioner submits that even if the allegations made against the petitioner (which are being contested by the petitioner) are accepted as

correct, the petitioner is liable to be punished by blacklisting/debarring the petitioner for three years. And, the petitioner has already undergone a punishment of being debarred/blacklisted for a period in excess of the maximum punishment prescribed for alleged misconduct/offence. He submits that in these circumstances, notwithstanding, the case instituted against the petitioner, the petitioner would be entitled to be re-empanelled. The aforesaid contentions are, *prima facie*, persuasive.

8. In the circumstances, the respondent is directed to examine the petitioner's request for being re-empanelled in the light of the Revised Norms of Outdoor Publicity and having regard to the contentions as noted above. Respondent no.2 shall take an informed decision and communicate the same to the petitioner within a period of four weeks from today. In the event if the petitioner is aggrieved by the said decision, the petitioner may apply.

9. The petition and the application are disposed of with the aforesaid directions.

10. Order *dasti*.

NOVEMBER 07, 2017
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VIBHU BAKHRU, J