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

+ **W.P.(C) 10852/2017**

MR. TRIYOGI NARAYAN SINGH AND ANR. Petitioners

Through : Ms G.Umapathy, Mr Leo G.Rozario
and Mr Aditya Singh, Advocates.

versus

**CONTAINER CORPORATION OF INDIA
LIMITED AND ORS.**

..... Respondents

Through : Mr Rishi Awasthi and Mr Kabir
Ghosh, Advocates.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **06.12.2017**

W.P.(C) 10852/2017 & CM No.44468/2017(stay)

1. The petitioners are aggrieved by the issuance of the tender/Notice Inviting Tender(N.I.T.) dated 10.11.2017.
2. Learned counsel for the petitioners submits that in the previous process for the same services, they were declared as L-1 bidders on 18.09.2017 to a bid, which was furnished earlier and in the circumstances, the initiation of the fresh procedure is arbitrary.
3. In view of the order the Court proposes, the detailed discussion of facts is not necessary. The petitioners submitted their bids for transportation of containers to the respondent (hereafter referred to as 'CONCOR'). In the meanwhile, the CONCOR had initiated proceedings to blacklist/debar by notice of 26.09.2017. This

culminated in an order dated 14.11.2017.

4. The learned Single Judge of this Court in W.P.(C) 10012/2017 held that the debarment order was contrary to law and directed initiation of fresh proceedings.

5. The learned counsel for the petitioners urges that in the light of the orders made and the preceding facts, the initiation of fresh tender procedure was wholly unwarranted.

6. Counsel for the CONCOR appearing on advance notice states that after judgment was delivered in W.P.(C) No.10012/2017, a fresh show-cause notice has been issued to the petitioners, on 01.12.2017, requiring it to reply within a week.

7. It is submitted that the petitioners' conduct is suspect because not only did they suppress material facts and claim unwarranted Micro, Small and Medium Enterprises (MSME) benefit but did so repeatedly in successive tenders.

8. It is stated, in these circumstances, the cancellation of the previous tender process cannot be faulted.

9. During the course of hearing, learned counsel for the CONCOR furnished a copy of the show-cause notice dated 01.12.2017 issued after the learned Single Judge's order to the counsel for the petitioners.

10. Having regard to these developments, the Court is of the opinion that the petitioners should respond to the notice.

11. In the meanwhile, as there is no debarment/blacklisting order, it is open to the petitioners to participate in the fresh tender process initiated on 10.11.2017.

12. The CONCOR shall ensure that a final decision on the fresh notice issued pursuant to the Single Judge's directions is taken in accordance with law after giving such opportunity to the petitioners, as is reasonable and feasible under the circumstances.

13. The CONCOR shall further take a decision, as expeditiously as possible, to ensure the petitioners fair participation in the process and not defeat their rights.

14. In the light of the above directions, learned counsel for the writ petitioners, on instructions, seeks liberty to withdraw the Writ Petition.

Order *Dasti* under signatures of the Court Master.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

DECEMBER 06, 2017

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