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

+ W.P.(C) 3520/2018 & C.M. Nos.13868-13869/2018

BHUSHAN PHARMACEUTICALS PVT. LTD. Petitioner

Through: Mr.Navendu Kumar, Adv.

versus

NEW DELHI MUNICIPAL COUNCIL & ORS Respondents

Through: Mr.R.N. Vats, Standing Counsel with
Mr.Gaurav Bhargava, ASC & Dr.
Sridhar for NDMC

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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13.04.2018

Vide the present petition, the petitioner impugns the order dated 28.03.2018 passed by respondent No.2 vide which not only the petitioner has been blacklisted from participation in procurement of Ayurvedic Medicines for the respondent no.1/NDMC but even Earnest Money of Rs.2,58,718/- deposited by the petitioner has also been forfeited.

On 11.04.2018, when the writ petition was taken up for preliminary hearing, Mr.Navendu Kumar, learned counsel for the petitioner contended that the impugned order had been passed in gross violation of the principles of natural justice as before passing the order blacklisting the petitioner, no opportunity to explain its position had been given to the petitioner. In view of the admitted position that the impugned order had been passed without even issuing a show-

cause notice to the petitioner, it had been put to Mr.R.N. Vats, learned Standing Counsel for the respondents as to how the same was sustainable. At that stage, Mr.Vats had taken time to get instructions.

Today Mr.Vats fairly submits that in view of the admitted position that the petitioner's substantial rights and reputation had been prejudiced without being given an opportunity to explain its position, he has instructions to state that the impugned order would be withdrawn during the course of the day. He however, submits that keeping in view the fact that, the order is being withdrawn only on the ground that the petitioner was not given any opportunity to explain its position before passing of the impugned order, the respondents may be granted an opportunity to issue a fresh order, after following the principles of natural justice. In view of the aforesaid fair stand taken by the respondents withdrawing the impugned order dated 28.03.2018, nothing survives in the writ petition.

The impugned order dated 28.03.2018 would stand withdrawn. However, it is made clear that the respondents would be at liberty to take appropriate action against the petitioner by issuing a fresh show cause notice and granting an opportunity to the petitioner to submit its explanation. The respondents would also give an opportunity of personal hearing to the petitioner's authorized representative and would be at liberty to pass a fresh order as deemed fit, on all grounds including the grounds taken in the impugned order.

The petition alongwith pending applications, is disposed of in the aforesaid terms.

Needless to say that in case the petitioner is still aggrieved, it

will be open to the petitioner to take legal recourse as permissible under law.

DASTI.

APRIL 13, 2018/gm

REKHA PALLI, J