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

Judgment pronounced on: 5th February, 2018

+ W.P.(C) 2940/2017 & CM No.12833/2017

M/S GEO MILLER & CO PVT LTD Petitioner

Through Mr. S.D. Singh, Mr. Rahul
Kumar Singh, Mr. Kamla
Prasad, Mrs. Surabhi Shukla
and Mr. Jitender Singh, Advs.

versus

**BIHAR URBAN INFRASTRUCTURE DEVELOPMENT
CORPORATION PVT LTD AND ANR Respondents**

Through Mr. Shivam Singh, Mr. Anand
Miglani and Ms. Apoorva
Srivastava, Advs.

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HON'BLE MR. JUSTICE RAJIV SHAKDHER**

RAJIV SHAKDHER, J. (ORAL)

1) After some arguments, Mr. S.D. Singh, learned counsel for the petitioner says that he will withdraw the captioned writ petition and file his action in the appropriate court, provided the interim protection granted by this Court continues to operate till such time a decision is taken at least qua the interim order.

2) Mr. Shivam Singh, who appears on behalf of the respondents says he would have no difficulty if the interim order passed by this

Court continues to operate till such time, a contra view is taken by the appropriate forum.

3) I may only indicate that the instant writ petition impugns orders dated 26.10.2013 and dated 27.5.2015. Principally, the petitioner is aggrieved by the fact that he has been debarred by respondent no.1 from participating in future tenders for a period of five (5) years.

4) A show cause notice was issued to the petitioner on 25.3.2015, whereupon, the petitioner was blacklisted by respondent no. 1.

5) It is the petitioner's case that the blacklisting order 27.5.2015 and debarment order dated 26.10.2013 was passed by respondent no.1, in exercise of powers under Section 8 of the Bihar Contractor Registration Rules, 2007 (in short "2007 Rules"). According to the petitioner, the said rules apply only to contractors registered with the respondent no.1. The petitioner's case is that since it is not registered with respondent no. 1, nothing provided for in the 2007 Rules can be made applicable to it.

6) Learned Counsel for the respondents, on other hand, contend that apart from the 2007 Rules there is an implied power in the contract to blacklist/debar the petitioner and such like persons/entities.

7) Mr. S.D. Singh, who appears for the petitioner, per contra, maintains that since there is no privity of contract between the petitioner and respondent no.1, the impugned action is unsustainable.

8) Be that as it may, Mr. S.D. Singh submits that he would approach the appropriate forum which, according to him, is the Patna High Court for appropriate relief. It is his case that since the impugned orders were passed without jurisdiction, writ petition would

be the appropriate remedy, which though could be maintained as he has now realizes only before an appropriate forum.

9) I may also note that it is the stand of the counsel for the respondents that both the Special Purpose Vehicle i.e., Patna Water Supply Distribution Networks Pvt. Ltd., of which the petitioner is a minority shareholder, as well as the majority shareholder i.e., Gammon India Ltd. have approached the Patna High Court against the similar orders passed qua them by respondent no.1.

10) I am told by the counsel for the respondents that those writ petitions are pending adjudication in the Patna High Court.

11) Given the aforesaid circumstances, as prayed by Mr. S.D. Singh, the writ petition is dismissed as withdrawn with liberty to approach to the appropriate forum.

12) The petitioner will approach the appropriate forum, which Mr. S.D. Singh says is Patna High Court without fail within seven weeks from today. The interim order passed by this Court on 27.4.2017 will continue to operate till such time, the action filed by the petitioner is entertained and orders are issued by the appropriate forum.

13) It is, however, made clear if the petitioner fails to approach the appropriate forum within a period of seven weeks from today, the protection granted by this Court will automatically dissolve. It will be responsibility of the petitioner to remove defects, if any, which may be pointed out at the stage of filing and have the matter placed for orders before the appropriate forum.

14) The writ petition is disposed of in the aforementioned terms.

15) CM No.12833/2017 also stands disposed of accordingly.

RAJIV SHAKDHER, J

FEBRUARY 05, 2018

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