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

+ W.P.(C) 9996/2018

COL ANAND SAGAR SAHGAL (RETD.) AND
ANR.

..... Petitioners

Through: Mr Shri Venkatesh, Mr Varun Singh
and Mr Samarth Kashyap, Advocates
alongwith petitioner in person.

versus

DIRECTORATE GENERAL RESETTLEMENT, MINISTRY
OF DEFENCE AND ANR.

..... Respondents

Through: Mr Ravi Prakash, CGSC and Mr
Nitish Gupta and Mr Farman Ali,
Advocates with Col. Umbrinikar, Jt.
Director, DGR for R-1.
Mr Varun K. Chopra with Mr Gurtaj
Pal Singh, Advocate for R-2/GAIL.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **24.09.2018**

C.M. No. 38944/2018

1. Allowed, subject to all just exceptions.

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2. The petitioners have filed the present petition, *inter alia*, impugning a notice dated 27.08.2018 (hereafter 'the impugned notice') issued by respondent no. 1 (hereafter 'DGR'), whereby the petitioner has been called upon to show cause as to why his security agency (petitioner no.2) should not be dis-empanelled in terms of Paragraphs 16(a), 26(b) and 26(c) of the

Office Memorandum dated 09.07.2012 (hereafter ‘DGR Guidelines’).

3. The allegation against the petitioners is that petitioner no.1 had quoted service charges for providing security services to GAIL (India) Ltd – a public sector enterprise – which is less than 14% of the wage and the same is contrary to the DGR Guidelines. The learned counsel appearing for the petitioners submits that there was no prohibition in quoting service charges below 14% of the wages. He has also referred to the Letter Inviting Tender dated 17.08.2018 issued by GAIL (India) Ltd., which indicates that all agencies quoting service charges above 14% would be rejected and the bidders were required to quote service charges “not more than 14%”. He submits that in terms of the said tender, petitioner no.1 was entitled to quote service charges less than 14%. He has also referred to the Guidelines dated 09.07.2012 and submitted that on a plain reading of the said guidelines the petitioner was not prohibited from quoting service charges below 14%. Mr Prakash, learned counsel appearing for the respondents states that the said interpretation is incorrect. He has also referred on an undertaking dated 17.01.2018 issued by the petitioner confirming that the petitioner would not quote service charges less than 14% of the wages.

4. This Court does not consider it apposite to entertain this controversy at this stage, as the petitioners’ matter is still at the stage of a show cause notice. Undisputedly, the petitioners have an opportunity to convince the concerned authorities that he has not fallen foul of the DGR Guidelines.

5. The respondents are required to examine the contentions advanced on behalf of the petitioners and take an informed view. It is also necessary to observe that the petitioners are sought to be visited with punitive measures

and if there is any ambiguity in the DGR Guidelines or other documents this regard, the same would necessarily have to be read in favour of the petitioners.

6. The petitioners may respond to the impugned notice before the due date as stipulated in the impugned notice. Mr Prakash also states that the petitioners would also be afforded a hearing on 03.10.2018. The respondents would consider the response of the petitioners and pass a speaking order. In the event, the order so passed is adverse to the petitioners, the same will not be implemented for a period of one week from the date of the said order, in order to enable the petitioners to impugn the same.

7. The petition is disposed of in the aforesaid terms.

8. Order *dasti*.

VIBHU BAKHRU, J

SEPTEMBER 24, 2018
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