

\$~62

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

+ W.P.(C) 11433/2018 & CM No. 44248/2018

M/S JAGDAMBA SALES CORPORATION Petitioner

Through: Mr J. P. Sengh, Sr. Advocate with Mr
K.G. Sharma, Ms Manisha Mehta, Ms
Vaishali Tanwar, Ms Mrigna
Shekhar, Mr Sakshi Pratap and Mr
Akash Mishra, Advocates.

versus

STATE (GNCT OF DELHI) AND ORS. Respondents

Through: Mr Ramesh Singh, Standing Counsel
with Mr Chirayu Jain and Ms Nikita
Goyal, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

23.10.2018

1. Issue notice. Learned counsel appearing for the respondents accepts notice.
2. The petitioner has filed the present petition impugning an order dated 25.09.2018 passed by the Superintendent (PHQ), whereby the petitioner has been blacklisted and debarred from dealing with the Delhi Prison Department for a period of five years with effect from 22.12.2017.
3. This is the second round of litigation. The petitioner had been blacklisted by an order dated 19.01.2018 on account of failure on the part of the petitioner to comply with his obligations to lift the agreed quantity of mustered de-oiled cake (khal). The said order was challenged by the

petitioner before this Court by way of a writ petition being W.P.(C) 2660/2018. The said writ petition was allowed and the blacklisting order dated 19.01.2018 was set aside by an order dated 17.07.2018 passed by this Court. The respondents were directed to pass a fresh order after affording the petitioner an opportunity of being heard. This Court had also observed that a party could not be blacklisted for an indefinite period.

4. Pursuant to the order dated 17.07.2018, the petitioner was afforded a hearing and the proceedings culminated in the order dated 25.09.2018, which is impugned in the present petition.

5. A plain reading of the impugned order indicates that it is bereft of any reasons and the petitioner's explanations have not been considered. *Prima facie*, the quantum of punishment also appears to be a disproportionate considering that no reasons have been indicated for the imposition such punishment.

6. Mr Ramesh Singh, learned counsel who appears for the respondents states that although, the order may not reflect all the reasons for imposition of such punitive measure but the same would be available on the file. It is trite law that an order must disclose the reasons and the same must be communicated to the parties concerned. Merely retaining notings on the relevant file would not be sufficient compliance with the principles of natural justice.

7. In view of the above, the impugned order is set aside and the matter is remanded to the concerned authority to pass a fresh order having due regard to the principles as set out by the Supreme Court in ***Kulja Industries Limited v. Chief General Manager, Western Telecom Project BSNL & Ors.: AIR 2014 SC 9***. Let the said order be passed within a period of six

weeks from today. In the meantime, the petitioner shall refrain from participating any contracts or tender floated by the Delhi Prisons Department.

8. The petitioner is also aggrieved as it is claimed that the ongoing contracts have been cancelled even though there has been no default on the part of the petitioner in performance of those contracts. It would open for the petitioner to agitate this question before the concerned authority and the concerned authority shall consider the petitioner's grievance in this regard.

9. The petition is disposed of with the aforesaid direction. The pending application is also disposed of.

VIBHU BAKHRU, J

OCTOBER 23, 2018
MK