

WRIT PETITION NO.584 OF 2019

V/s.

A Tender was issued for supply of Fire Fighting Suit for Fire Brigade Department by the City and Industrial Development Corporation. The petitioner participated in the e-tender floated by respondent no.4 with due date 12th December, 2017. Petitioner submitted its offer tender on 11th December, 2017. The tenders were opened. The documents supplied by petitioner alongwith e-tender

were insufficient. Petitioner was given time of one week more for uploading some additional documents. The technical bid of the petitioner was rejected. A show-cause notice was received by the petitioner on 12th July, 2018 as to why petitioner should not be debarred for participating in the future tenders, to which the petitioner filed a reply. The petitioner came to know that an internal Circular has been issued by the respondents on 25th September 2018, debarring and disqualifying the petitioner with immediate effect for a period of three years for participating in the future tenders. The Circular called upon all the SEs/EEs to take note of the decision and not to allow the petitioner to participate in any tender process. No decision was communicated to the petitioner, much less any reasoned one. Hence, petitioner preferred the present petition, after collecting the necessary data.

3. On behalf of respondents, affidavit-in-reply has been filed. The Counsel appearing for the respondents submits that there is sufficient material on record brought before the concerned authority to reject the petitioner's technical bid. On further enquiry it was noticed that petitioner has suppressed some information and has forged some documents too. Show-cause notice was issued and after getting reply from the petitioner, the respondents decided to debar the petitioner for three years. The Counsel fairly submits that there is no order as such

which was communicated to the petitioner but decision of the respondents was effected in the shape of an internal Circular which is impugned herein.

4. We have perused the record, considered the submissions advanced. We find that as petitioner was issued a detailed show-cause notice, reply was tendered by the petitioner to the respondents, in the circumstances, a brief reasoned order was atleast expected. The respondent authority, instead of passing an order, issued an internal Circular to be circulated in the various departments informing them that petitioner has been debarred from participating in the tender for three years. Certainly debarring a person from participating in the future tenders creates a cloud on its performance and eligibility. In the given fact situation, it could be considered as a stigmatic order, casting reflection on the competency of petitioner. Therefore, when the show-cause notice was issued and replied, it was necessary for the respondents to take it to the logical conclusion and pass a reasoned order and communicate the same to the petitioner. This has not happened in the present case.

5. In such case, it is for the concerned authority to decide whether to hear the concerned party based on the material brought before it and the reply filed. Considering this, we dispose of the petition by passing

following order:-

I) The Petition is partly allowed.

ii) The impugned circular dated 25th September, 2018 is quashed and set aside.

iii) The respondents will pass a reasoned order, which shall be communicated to the petitioner.

iv) In case the respondents desire to hear the petitioner, they are at liberty to do so. The respondents shall deal with the matter without being influenced by the earlier decision to issue circular.

6. It is clarified that we have not expressed any opinion on the eligibility, competency or the merits of the reply which the petitioner tendered to the show-cause notice issued by the respondents. The respondents are free to deal with the matter on its own merits.

N.M. JAMDAR, J

CHIEF JUSTICE