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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 13689/2019 & CM Nos. 55167-55168/2019
MANOJ SACHDEVA Petitioner

Through: Mr.Piyush Choudhary, Adv.

versus

THE STATE OF NCT OF DELHI AND ORS. Respondents

Through: Mr.Kush Sharma, Ms.Shrutika Garg
& Ms.Nishchaya, Adv. for DPCC.
Mr.Sachin Nahar, Adv. for R-3.
Mr.Akhil Mittal, Standing Counsel
for R-6.
Mr.Ayush Srivastava, Adv. for
DSIIDC.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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23.12.2019

The present Writ Petition under Article 226 of the Constitution of India inter alia challenges the communication dated 29.08.2019 and subsequent communication dated 18.10.2019 whereby directions under Section 31(A) of the Air (Prevention and Control of Pollution) Act, 1981 and 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 had been issued.

The learned counsel for the petitioner has referred to several other orders passed by this Court in similar petitions where on the statement made by the learned counsel representing DPCC, the Court has allowed the petitions with a direction to the respondent to grant an opportunity of hearing to the petitioner and pass a fresh order. The petitions have been allowed on the premise that no Show Cause Notice was issued by the respondent to the petitioner before making a demand of Environmental

Damage Compensation (EDC) by way of impugned communication.

The learned counsel for the respondent does not dispute that in the present case as well, no Show Cause Notice has been issued by the respondent. Therefore, I see no reason to, not follow the precedent of this Court and deny the same relief to the petitioner.

The learned counsel for the petitioner also relies on the letters dated 03.10.2019 and 15.11.2019 and submits that the Petitioner without prejudice to his rights and under protest, has deposited a total of Rs. 8,90,000/- out of the demanded amount of Rs. 12,40,000/- and the premises is presently de-sealed.

In this view of the matter, the impugned communication is set aside and it is directed that the present petition shall be treated as a representation to the respondent against the levy of the EDC. In case the petitioner so desires, he can file an additional representation within a period of ten days from today. The respondent shall, without prejudice to its rights and contentions, pass a fresh order on the said representation after affording the petitioner an opportunity of being heard. The order so passed, if adverse to the petitioner, shall not be implemented for a period of two weeks from the date of intimation of the said order to the petitioner. The respondent while passing the fresh orders as directed, will take into consideration the above facts.

In view of the above, the petition is allowed in the above terms with no order as to cost.

Dasti, under the signature of the court master.

SANJEEV NARULA, J

DECEMBER 23, 2019/rv