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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 13635/2019 & CM No. 55057/2019
ARUN KUMAR MAHTO

..... Petitioner

Through: Mr.Subodh Kumar Jha, Mr.Pribindh
Kumar & Mr.Vinit Kumar Pandey,
Advs.

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr.Kush Sharma, Ms.Shrutika Garg
& Ms.Nishchaya, Adv. for DPCC.
Ms.Sangita Rai, Adv. for R-1 & R-3.

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 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 cited several other orders passed by this Court in similar petitions wherein, 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 being heard to the petitioner and pass fresh orders. The said petitions have been allowed on the premise that no Show Cause Notice was issued by the respondent to the petitioner before making a demand, if any, of Environmental Damage

Compensation (EDC) by way of communications impugned in the said petition.

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.

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 learned counsel for the petitioner further submits that direction for sealing is also illegal. The respondent while denying the said allegation submits that this aspect shall be looked into while passing a fresh order, deciding petitioner's representation.

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