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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 760/2019, C.M. APPL.3288-3289/2019**
RAO RAGHUBIR SINGH SEWA SAMITI

..... Petitioner

Through : Sh. K.B. Upadhyay, Sh. S.N. Tripathi,
Sh. Shailesh. K. Tiwari and Sh. C.P. Pandey,
Advocates.

versus

GOVT. OF NCT OF DELHI Respondent
Through : Sh. Satyakam, ASC with Sh. Sanjay
Tyagi.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PRATEEK JALAN

% **ORDER**
23.01.2019

Issue notice. Mr. Satyakam, Advocate accepts notice.

At the outset, it is pointed out that the decision of this Court in *The Peoples Welfare Society v. Govt. of NCT of Delhi* [W.P.(C) 434/2019, decided on 18.01.2019] completely covers the issue. The petitioner's bid for supply of cooked mid-day meal has not been processed on the ground that the work order issued to it for a similar contract was suspended till further orders on 25.11.2009.

The relevant conditions – in the form of a disqualification is discernable from the following requirements:

<i>SI No.</i>	<i>Condition</i>	<i>Requirement</i>	<i>Documents required</i>
xxxx	xxxx	xxxx	xxxx
3.	<i>Applicant Organization, whose work order has been terminated/suspended by Directorate of Education for supply of contaminated meal or who has been blacklisted by Directorate of Education, GNCT of Delhi or any Department of GNCT of Delhi or who has been blacklisted by any Department of Govt. of India due to any mishap/illness of consumers/untoward incident/any other reason, cannot apply, if their Blacklisting/termination/suspension is valid on the date of submission of application.</i>	<i>Applicant Organization, whose work order has been terminated/suspended by Directorate of Education for supply of contaminated meal or who has been blacklisted by Directorate of Education, GNCT of Delhi or any Department of GNCT of Delhi or who has been blacklisted by any Department of Govt. of India due to any mishap/illness of consumers/untoward incident/any other reason, cannot apply, if their Blacklisting/termination/suspension is valid on the date of submission of application.</i>	<i>An affidavit that the applicant Organization has never been blacklisted by Directorate of Education, GNCT of Delhi or any Department of GNCT of Delhi or has never been blacklisted by any Department of Govt. of India OR an affidavit that the applicant's Blacklisting is not valid on the date of submission of application.</i> <i>An affidavit that the work order for supply of Mid Day Meal of applicant organization has never been suspended/terminated by Directorate of Education, GNCT of Delhi.</i>
xxxx	xxxx	xxxx	xxxx
xxxx			

In *Peoples Welfare Society (supra)*, this Court had discussed the individual facts of the case and granted relief in the following terms:

“6. Learned counsel for the GNCTD does not urge that the previous conduct, which lead to the cancellation of the contract weighed with the tender evaluating authorities in this case. At the same time, he did not dispute that the cancellation of the contract in 2012 was not followed by any procedure much less an order blacklisting the petitioner for any length of time.

7. It is evident that the fact that the petitioner had in the past supplied allegedly contaminated or unhygienic food is borne out by the record. However if, it is further inferred that the petitioner cannot be considered for award of tender at all by GNCTD, in the opinion of the court, that is arbitrary and cannot be countenanced. Concededly, no blacklisting order was made against the petitioner; in any event, it was not made known to the petitioner.

8. In these circumstances, the past transgression by the petitioner in the execution or performance of the contract cannot be a bar for considering its bids on the merits and proceeding to decide, which would be the most appropriate agency that can be awarded the contract.

9. For the above reasons, it is held that the petitioner’s bid needs to be evaluated on its merits and dealt with in accordance with law. Directions to the effect are issued, and the writ petition is allowed in the above terms.”

In the present case too, it is not disputed that the suspension of the Work Order made about eight years ago cannot be considered a disqualification in perpetuity. It is not the GNCTD’s stated position that any further proceeding was drawn or initiated culminating in

blacklisting or any such adverse order. In such circumstances, as in *Peoples Welfare Society (supra)*, the petitioner's bid too shall be evaluated on its merits and dealt with in accordance with law. The writ petition succeeds and is allowed in the above terms along with the pending applications.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

JANUARY 23, 2019/ajk