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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6456/2019, CM Nos. 27388-27389/2019**
M/S RAVINDER SINGH RATHI Petitioner
Through: Ms. Pratyaksh Sharma, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION Respondent
Through: Mr. Sanjay Poddar, Sr. Adv. with
Ms. Aakanksha Kaul, Adv. for
SDMC.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **30.05.2019**

CM No. 27389/2019 (for exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 6456/2019

1. The present petition has been filed by the petitioner with the following prayers:

“It is most respectfully prayed that this Hon’ble Court may be pleased to:

a) Issue a writ in the nature of certiorari or any other writ, order or direction quashing and setting aside the impugned order / communication dated 28.03.2015 issued by the respondent (Annexure P-1) and communication dated 22.04.2019 (Annexure P-2) as the same are

unreasonable, arbitrary and unconstitutional;

b) Issue a writ of mandamus or any other writ, order or direction directing the respondent to remove the petitioner from the list of blacklisted contractors;

c) Issue a writ, order or direction declaring that the petitioner is not in default of dues towards the respondent subject to the outcome of CS (Comm) 996/2016;

d) Pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case;

Pass such other order(s), as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in favour of the petitioner."

2. In substance the challenge by the petitioner in this writ petition is to the communications dated March 28, 2015 and April 22, 2019. Vide the communication dated March 28, 2015 the respondent has decided to cancel all parking contracts of the firm besides cancelling registration of firm as parking contractor and also blacklisted the firm from the panel of registered parking contractors on the ground that the petitioner has not cleared outstanding dues. Vide communication dated April 23, 2019 the respondent has rejected the representation of the petitioner dated March 22, 2019 requesting for revocation of blacklisting.

3. At the outset, learned counsel for the petitioner submits that she would press the writ petition only with regard to a challenge to the communication dated April 23, 2019. The said communication reads as

under:

“Please refer to your letter dated 22.03.2019 requesting for revocation of blacklisting of your firm viz. M/s Ravinder Singh Rathi. In this connection it is stated that your firm viz. M/s Ravinder Singh Rathi was blacklisted vide letter No.RPC/SDMC/2015/D-496 Dated 28.03.2015 due to Non-payment of Monthly License Fee Amount to Rs.2,71,19,484/- for all parking sites. Your request for revocation of blacklisting has been examined. Your request for revocation of blacklisting has been rejected by the competent authority on account of pending dues against you.”

4. Having noted the aforesaid submission of the learned counsel for the petitioner, the writ petition needs to be considered on the premise that the order dated March 28, 2015 is justified. Insofar as the challenge that the rejection of the representation of the petitioner for revocation of blacklisting of the petitioner firm is unjustified, the answer for this is in the impugned order itself, inasmuch as in the communication dated March 28, 2015 the respondent has stated that an amount of Rs. 2,71,19,484/- on account of MLF up to March 2015 is outstanding, and for that reason, the blacklisting cannot be revoked.

5. Even though the learned counsel for the petitioner has made several submissions to contend that the said amount is not outstanding, I am afraid in the absence of any challenge to the communication dated March 28, 2015, contents thereof need to be accepted as it is. In other words, the petitioner is

liable to pay the amount of Rs. 2,71,19,484/- which it has not paid.

6. If that be so, the non-payment of dues has resulted in the cancellation of all five parking contracts besides cancellation of registration of the firm as contractor and also blacklisting of the petitioner firm. The only ground on which the petitioner has challenged the communication dated April 23, 2019 is, proportionality, which aspect also cannot be looked into as long as the dues have not been paid.

7. In view of the above, I do not see any merit in the writ petition, the same is dismissed.

CM No. 27389/2019

Dismissed as infructuous.

V. KAMESWAR RAO, J

MAY 30, 2019/aky