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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7711/2019**

YOGESH YADAV

..... Petitioner

Through: Mr Rajiv Yadav, Advocate.

versus

THE DIRECTOR GENERAL RESETTLEMENT
& ORS

..... Respondents

Through: Mr K. V. Sreemithun, Sr. Panel
Counsel for R-1, R-2 and R-3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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19.07.2019

VIBHU BAKHRU, J

1. The petitioner has filed the present petition, *inter alia*, impugning a communication dated 05.06.2018 (hereafter 'the impugned order'), dis-empaneling the petitioner from security agencies employed by respondent no.1 (Director General Resettlement – hereafter 'DGR'). The said punitive measure was taken against the petitioner on the allegation that he had violated Paragraphs 11 and 26 of the Office Memorandum dated 09.07.2012.

2. The petitioner superannuated from services with the Indian Armed Forces on 06.10.2012. Thereafter, he commenced the business of providing security services under the name and style of Yogesh Yadav Security Agency.

3. The petitioner was empaneled with DGR on 06.10.2016. Thereafter, on 19.07.2017, the petitioner applied for and obtained a license under the Private Security Agencies (Regulation) Act, 2005 (hereafter 'PSARA') for providing the said services within the State of Maharashtra.

4. The petitioner submitted a copy of the aforementioned license to the DGR, for the purpose of securing a sponsorship for providing such services. Admittedly, the license obtained under the PSARA as well as various other communications sent by the petitioner reflected his office address as 106B, Building 1, Rajat Heights, 1st Floor, Koradi Road, Near Vox Cooler, Nagpur, Maharashtra. The petitioner's letterhead also reflected the said address.

5. Since the address furnished by the petitioner, as indicated in his license and on his letterhead, did not match the address furnished by the petitioner, DGR sent a letter dated 23.08.2017 calling upon the petitioner to confirm the commercial address mentioned in his letter as well as the address of the regular local office located in the State of Maharashtra.

6. The petitioner responded to the same on 23.08.2017. He explained that he had entered into a Rent Agreement with one Shri Vijendra Singh Yadav, who owned a few shops in the building known as Raja Heights, Koradi Road, Nagpur. The petitioner claimed that he had occupied the shop bearing no.107B, Building 1, Rajat Heights, 1st Floor, Koradi Road, Near Vox Cooler, Nagpur and had erroneously

entered into an agreement reflecting the address of the premises as shop no.106B instead of 107B. He stated that the shop leased to him, namely, shop no.107B was furnished by him but remained locked as the petitioner did not have much work.

7. Thereafter, on 26.08.2017, DGR called upon the petitioner to furnish an attested copy of the Rent Agreement for shop no.106B, Building 1, Rajat Height, 1st Floor, Koradi Road, Near Vox Cooler, Nagpur. DGR also called upon the petitioner to furnish copy of the title deed for shop no.107B, Building 1, Rajat Heights, 1st Floor, Koradi Road, Near Vox Cooler, Nagpur. In addition, the petitioner was called upon to clarify as to how an incorrect address had been entered in the Rent Agreement as well as on the PASRA license. The petitioner was called upon to show cause as to why action of dis-empaneling the petitioner should not be initiated for violation of the Office Memorandum dated 09.07.2012.

8. The petitioner responded to the show cause notice on 01.09.2017. He explained that the Rent Agreement entered into between the petitioner and the landlord had incorrectly reflected the premises as shop no.106B instead of 107B. This error was caused as the said document was printed from the computer system of the owner wherein the draft of the Rent Agreement pertaining to shop no.106B was saved. He claimed that this was an inadvertent error. Insofar as the PSARA license is concerned, the petitioner stated that he had already taken steps for correcting the same. The petitioner contended that there was no violation of the Office Memorandum dated

09.07.2012 since he was required to set up a separate office within a period of one month from the commencement of the contract and therefore, the issue of sharing the office at that stage was not relevant.

9. On 28.09.2017, the DGR issued another show cause notice indicating that it was not satisfied with the petitioner's response. In the said show cause notice (captioned as show cause notice – 2), it was also stated that an inspection was carried out at the said security agency on 06.09.2017 and it was found that all shops were serially numbered and were not sub-divided as A/B/C. It was found that shop no.106 had a flex board bearing the name of three security agencies, including the petitioner's security agency (Yogesh Yadav Security Agency). A photograph of the said shop was also enclosed along with the show cause notice. In view of the above, the respondents alleged that the petitioner had concealed material information about the running of the security agency from shared premises and had obtained PSARA license with the same address. The petitioner was called upon to respond to the said allegations and to show cause as to why action for dis-empanelment should not be initiated against the petitioner.

10. The petitioner responded to the said show cause notice (notice – 2) by a letter dated 15.10.2017 reiterating the explanation provided earlier.

11. The learned counsel appearing for the petitioner states that there is no violation of the Office Memorandum dated 09.07.2017, as the petitioner was required to establish a separate office after the first

contract had been awarded. He submitted that in the present case, the petitioner had not been awarded any contract and therefore, could not be held to have violated the Office Memorandum dated 09.07.2012.

12. At this stage, it would be relevant to refer to Paragraph 11 of the Office Memorandum dated 09.07.2012, which is set out below:-

“11. Functioning of Security Agencies/Corporations

Office Set up: A regular local office should be setup in an authorized area manned during the office hours in the state of operation. The office should have landline telephone and fax. All correspondence will be sent at the office address held with DGR. Sharing of office space by security agencies under the same address with each other or engaging in any other commercial activity will make them liable to dis-empanelment /non empanelment. The ESM will submit Notarized Rent Agreement for office space in the local area within 30 days of first award of contract. In case of self/spouse/dependent owned premises no such agreement is required.”

13. Undeniably, an ex-servicemen employed with DGR is required to submit a notarized Rent Agreement within a period of thirty days of the award of the contract. However, in the present case, the petitioner had complied with this requirement and had, admittedly, furnished a Rent Deed dated 01.02.2017, reflecting his office address as security agency as no. 106B, Building 1, Rajat Heights, 1st Floor, Koradi Road, Near Vox Cooler, Nagpur. This is also the address, which is reflected on the letterhead of the petitioner as well as on the PSARA license. It is difficult to except that the petitioner had committed multiple errors

in reflecting his correct address. Any doubt that could have remained is put to rest by the fact that the physical inspection of the premises was done and it was found that the shop, bearing no.106, had a sign board bearing the name of three security agencies including that of the petitioner. This clearly establishes that the petitioner's office, if any, was located in shop no.106, Building 1, Rajat Height, 1st Floor, Koradi Road, Near Vox Cooler, Nagpur.

14. In view of the above, it cannot be disputed that at the material time, the petitioner was either sharing the said office with other security agencies or had permitted other security agencies to reflect his name on their sign board.

15. Given the aforesaid facts, it is difficult to accept that the petitioner was maintaining his office at shop no. 107B, Building 1, Rajat Height, 1st Floor, Koradi Road, Near Vox Cooler, Nagpur as claimed by him. It also follows that the petitioner had furnished incorrect particulars to the DGR.

16. The conclusion that the petitioner was sharing his office with other security agencies and the same was in violation of Paragraph 11 of the Office Memorandum dated 09.07.2012 cannot be faulted. The petitioner's contention that he had thirty days after the award of the contract to shift his office, is also unpersuasive. The ESM was required to establish a separate office and furnish a notarized Rent Agreement for the same within a period of thirty days of the award of the first contract. In the present case, the petitioner had already

submitted a Rent Agreement to DGR. Obviously, this was done to show that he had set up an office, as required under Paragraph 11 of the Office Memorandum dated 09.07.2012. More importantly, it was not the petitioner's case that he was sharing an office with other security agencies (as found during inspection) and would establish a separate office after award of the contract. On the contrary, it was the petitioner's case that he did not have any office at shop no.106/106B on the first floor of the building in question. This was, clearly, belied by the fact that shop no.106 had the sign board of the petitioner alongwith two other security agencies.

17. In view of the above, the decision of the DGR to dis-empanel the petitioner cannot be faulted. The petition is, accordingly, dismissed.

JULY 19, 2019
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VIBHU BAKHRU, J