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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 6218/2018**

M/S GEO CHEM LABOURATORIES
PVT. LTD. ..... Petitioner

Through Mr Sachin Datta, Senior Advocate with Mr Dinesh Sharma, Mr Ritika Jhurani, Ms Anmol Kathuria, Ms Jipsa Rawat, Advocates.

versus

UNITED INDIA INSURANCE CO. LTD. ..... Respondent

Through Mr Pankaj Seth, Advocate for R1.
Mr B. Mahapatra, Advocate for R3.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% **27.03.2019**

1. The petitioner has filed the present petition, *inter alia*, impugning the order dated 18.05.2018 passed by the respondent, cancelling the insurance policy issued to the petitioner.

2. The learned counsel appearing for the respondent submits that the said order is not a cancellation order but a show cause notice issued to the petitioner, whereby the petitioner was provided an opportunity to show cause as to why the policy should not be cancelled. He has referred to the last sentence of the said order which reads as under:-

> "Hence we hereby give you policy cancellation notice and the policy will stand cancelled after 15 days from date of issue of the letter."

3. A plain reading of the order dated 18.05.2018 does not indicate that it is couched in the language of a show cause notice. In the event the respondent desired to elicit any response from the petitioner with regard to any allegation, it would have been apposite for the respondent to have specifically stated the allegations against the petitioner, on account of which the action of cancellation of the policy was being initiated.

4. The learned counsel appearing for the respondent submits that the principal reason for cancelling the policy is the failure on the part of the petitioner to truly disclose all material facts in its proposal form dated 02.06.2017. It is stated that the said form indicated that there was an approximate loss of ₹6 Crore for the year 2016-17, on account of dishonesty. However, the petitioner did not disclose that it had already suffered a loss of ₹17.5 Crore for which a claim had been made. It is also stated that prior to that date, the petitioner had lodged a claim of ₹8.6 Crore with another insurance company.

5. Insofar as the allegation that the petitioner had not disclosed the loss of ₹17.5 Crore is concerned, the learned counsel appearing for the petitioner submits that the same came in the petitioner's knowledge on 08.08.2017 and, therefore, the question of disclosing the same in the proposal form did not arise. He further submits that insofar as claim of ₹8.36 Crore is concerned, the same was made on an approximate basis.

6. It is apparent from the above that the respondent has premised its action on certain allegations against the petitioner, for which no effective opportunity was granted to the petitioner to meet the same. In view of the above, the decision of the respondent to cancel the policy is set aside.

7. Considering that it is the respondent's case that the order dated 18.05.2018 was to serve as a show cause notice, this Court considers it apposite to permit the petitioner to respond to the same. The petitioner shall also consider the averments made by the respondent in its counter affidavit and furnish a response within a period of two weeks from today. The respondent may take an informed decision and pass an appropriate order after affording the petitioner an opportunity to be heard.

8. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

MARCH 27, 2019

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