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

+ W.P.(C) 7870/2018 & CM No. 30184/2018

M/S MEDI WAVES INC.

..... Petitioner

Through: Mr Sandeep Kumar, Advocate.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr Pratyush Miglani, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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14.05.2019

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“(a). Quash/set-aside the letter dated 23.02.2016 VIDE NO.KSCH/ PURCHASE/ME/112/12-13/793 whereby the Respondent NO.2 has blacklisted the Petitioner firm from doing any business with Respondent No.2 and its associated hospitals.

(b). Direct the Respondents to withdraw the letter dated 23.02.2016 VIDE NO. KSCH/ PURCHASE/ME/112/12-13/793 whereby the Respondent No.2 has blacklisted the Petitioner firm from doing any business with Respondent No.2 and its associated hospitals.”

2. Respondent no.2 had issued notice inviting tenders for supply of Radiant Warmers on 01.11.2012. The petitioner had submitted its bid pursuant to the said tender and was declared successful. Consequently, on 02.02.2013, respondent no.2 issued a purchase order for supply of 10

Radiant Warmers. It is contended on behalf of respondent no.2 that the equipment supplied by the petitioner was faulty. Apart from that, the petitioner had also failed to respond to the requests for repairing the same. The learned counsel appearing for the respondents submits that repeated reminders were sent to the petitioner to attend to the complaints; however, the petitioner failed to do so.

3. The learned counsel appearing for the petitioner submits that the petitioner had responded to all the calls made by respondent no.2 and also carried out necessary repairs, even after the period of warranty had expired. The same is disputed by the learned counsel for the respondents.

4. It is seen from the record that no specific show-cause notice was issued to the petitioner calling upon it to show cause as to why it should not be blacklisted or debarred from entering into contract for making supplies to respondent no.2. Consequently, the petitioner has had no opportunity to meet the allegations against it.

5. In view of the above, the petition is allowed and the order dated 23.02.2016 blacklisting the petitioner, is set aside. However, it is clarified that this would not preclude respondent no.2 from issuing a fresh notice to the petitioner for imposing any punitive measure. Needless to state that if any such show cause notice is issued, respondent no.2 shall consider the petitioner's response and take necessary decision after affording the petitioner an opportunity of hearing.

6. The pending application is disposed of.

VIBHU BAKHRU, J

MAY 14, 2019/MK