

\$~7

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

+ **W.P.(C) 5944/2015**

M/S GOKUL PROJECTS

..... Petitioner

Through Mr Madhumita Bhattachajee,
Ms Urmila Kar Purkayastha, Advocates.

versus

GAIL GAS LTD & ORS

..... Respondents

Through Mr Ajit Pudusery, Mr Ajeet Singh
Verma, Advocates for R1.

Mr Juvraj Singh Bindra, Advocate for R2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

06.02.2019

1. The petitioner has filed the present petition impugning the communications dated 19.05.2015 and 26.05.2015, addressed by the respondent, whereby the petitioner was put on a holiday list for a period of three years with effect from 19.05.2015 and the petitioner's performance bank guarantee (bearing No. 45/2009 dated 14.05.2011) for a sum of ₹26,48,917/- was invoked.
2. The learned counsel appearing for the petitioner submits that the period of blacklisting is already over and, therefore, the petitioner's relief in this petition is rendered academic. She further prays that it be clarified that the said blacklisting order would now no longer impose any impediment on the petitioner, insofar as the respondent is concerned.
3. In so far as the invocation of the said bank guarantee is concerned,

it is pointed out that there is an arbitration clause in the agreement between the parties and it would be apposite for the petitioner to avail of the said remedies.

4. The learned counsel appearing for the respondent does not contest the aforesaid submissions.

5. In view of the above, the present petition is disposed of by clarifying that since the petitioner has already suffered the punishment of blacklisting, the respondent shall not hold the same against the petitioner. The petitioner is at liberty to avail of the other remedies in respect of the disputes relating to the invocation of the said bank guarantee, including, by arbitration.

6. It is clarified that if the issue of limitation is raised in respect of any claims that may be preferred in respect of the said bank guarantee, it would be open for the petitioner to seek exclusion of the time spent in pursuing the present petition. The said request would be considered by the concerned court/arbitrator in accordance with law. All contentions of the parties in this regard are reserved.

7. The petition is disposed of.

VIBHU BAKHRU, J

FEBRUARY 06, 2019

pkv