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

+ W.P.(C) 539/2020 & CM Nos.1419/2020 (for stay), 2499/2020 (for addl. Documents on behalf of petitioner)

NAGARJUNA AGRO CHEMICAL PVT. LTD. Petitioner

Through Mr.Sandeep Sethi, Sr. Adv. with
Mr.Divyakant Lahoti, Adv.,
Mr.Parikshit Ahuja, Adv. &
Mr.Kartik Lahoti, Adv.

versus

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
AND ORS. Respondents

Through Mr.Parveen Swarup, Adv. with
Mr.Gagan Mathur, Adv.for R-1 to 3.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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22.01.2020

1. The learned senior counsel for the petitioner submits that the respondent no.4 has been duly served and an affidavit of service in this regard has been filed vide diary no.1970 on 21st January, 2020. He has shown a soft copy of the notice bearing due acknowledgment of receipt from the said respondent. Despite of the same, none has appeared from respondent no. 4. Respondent no. 4 is, therefore, proceeded *ex parte*.

2. This petition has been filed by the petitioner challenging the communications dated 20th September, 2019 (of respondent no.1); 22nd November, 2019 (of respondent no.3) and 9th January, 2020 (of

respondent no.4).

3. It is the case of the petitioner that the communications dated 20th September, 2019 and 22nd November, 2019 were not orders of blacklisting the petitioner, however, the respondent no.4, treating them to be orders of black-listing, has proceeded to black-list the petitioner.

4. The learned counsel for respondent nos.1 to 3 submits that the letters dated 20th September, 2019 and 22nd November, 2019 are not orders black-listing the petitioner. He submits that in fact, the said respondents have initiated proceedings for black-listing the petitioner by issuing the show cause notice dated 2nd/4th January, 2020.

5. In view of the above statement, prayer 'A' of the petitioner no longer survives.

6. Learned counsel for the petitioner further raises a grievance that though the decision to black-list the petitioner is yet to be taken, the respondent nos.1 to 3 are circulating the communications dated 20th September, 2019 and 22nd November, 2019 to third parties thereby prejudicing the petitioner. The learned counsel for the respondent nos.1 to 3 submits that these letters would not be circulated.

7. As far as prayer 'B' made in the petition is concerned, a reading of the impugned letter dated 9th January, 2020 shows that the same has been premised only on the letters dated 20th September, 2019 of respondent no.1 and 22nd November, 2019 of respondent no.3, treating them to be the orders black-listing the petitioner. As the respondent no.1 and respondent no.3 have already clarified that these were not orders black-listing the petitioner, the impugned letter dated

9th January, 2020 cannot be sustained.

8. I may also note that it is the case of the petitioner that prior to the impugned communication dated 9th January, 2020, the respondent no.4 had not issued any Show Cause Notice to the petitioner. In terms of the judgment of the Supreme Court in *M/s Erusian Equipment & Chemicals Ltd. Vs. State of West Bengal & Ors (1975) 1 SCC 70*, this would also be a violation of the Principles of Natural Justice, because of which the impugned letter dated 9th January, 2020 cannot be sustained.

9. In view of the above, the impugned letter dated 9th January, 2020 is set aside, leaving it open to the respondent no.4 to initiate proceedings against the petitioner, if so advised, in accordance with law.

10. The petition is disposed of in the above terms along with pending applications.

11. *Dasti.*

NAVIN CHAWLA, J

JANUARY 22, 2020/aa