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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 9422/2019 & CM APPL. 38778/2019 & CM APPL.
54224/2019
M/S CENTURION LABORATORIES PVT. LTD.

..... Petitioner
Through: Mr.Sachin Datta, Sr. Adv. with
Ms.Samdarshi Sanjay, poxy for
Mr.Bishwajit Singh, Adv.

versus

CENTRAL MEDICAL SERVICE SOCIETY AND ANR.
..... Respondents
Through: Mr.Rishi Kant Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **06.01.2020**

This petition has been filed by the petitioner challenging the order dated 23.02.2018 passed by the respondent no. 1 debaring the petitioner from participating in the tenders of the respondent no. 1 for a period of two years. The petitioner further challenges the order dated 19.08.2019 passed by the respondent no. 1, pursuant to the order dated 24.07.2019 passed by this Court in WP (C) 7979/2019, directing the respondent no. 1 to grant a hearing to the petitioner and pass a speaking order. By the Impugned Order dated 19.08.2019, the respondent no. 1 has reiterated its decision to debar the petitioner from participating in the tenders of the respondent no. 1 from the period 23.02.2018 to 22.02.2020.

The learned senior counsel for the petitioner confines the prayer in the petition only to the limited extent that as the Show Cause Notice calling

upon the petitioner to show cause as to why the punishment of debarring the petitioner from the future tenders of respondent no. 1 was issued on 30.11.2017, the period of debarment would operate from the said date. He submits that the petitioner did not participate in any tender between the period 30.11.2017 to 23.02.2018 as the matter was pending consideration with the respondent no. 1.

On the other hand, the respondent no. 1 has reiterated its decision to debar the petitioner for a period of two years with effect from 23.02.2018. This reiteration has been made in the order dated 17.12.2019 passed by the respondent no. 1 pursuant to the order dated 06.12.2019 passed by this Court in the present petition.

I have heard the learned counsels for the parties. It is not denied by the respondent no. 1 that the petitioner did not participate in any tender of the respondent no. 1 after the issuance of the Show Cause Notice.

In view of the peculiar facts, I see force in the submissions made by the learned senior counsel for the petitioner. The order of blacklisting a party must be made by keeping in mind the test of proportionality. In the present case the petitioner has already been suffering from 30.11.2017. Therefore, the order debarring the petitioner is modified by directing the same to operate for a period of two years with effect from 30.11.2017 instead of and in place of with effect from 23.02.2018.

The petition is disposed of in the above terms.

NAVIN CHAWLA, J

JANUARY 06, 2020/rv