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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 5144 of 2021**

M/s Unicure (India) Ltd. C-22 And 23, Sector-3, Gautam Budh Nagar, Noida (UP), Through Its Authorised Representative Rajesh Agrawal, S/o Late Fatheh Chand Agrawal, Aged About 53 Years, R/o C/o National Medicoe, Beside Mission High School, Brihaspati Bazar, Bilaspur, Tahsil And District- Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. Chhattisgarh Medical Services Corporation Limited (A Government Of Chhattisgarh Undertaking) Through The Managing Director, Chhattisgarh Medical Services Corporation Limited, Chhattisgarh Housing Board Commercial Complex (North West Corner), Sector-27, Atal Nagar, Nawa Raipur, Raipur, Chhattisgarh
2. Deputy Manager (Sales And Operation), Chhattisgarh Medical Services Corporation Limited (A Government Of Chhattisgarh Undertaking), Chhattisgarh Housing Board Commercial Complex, (North West Corner), Sector-27, Atal Nagar, Nawa Raipur, Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. B. D. Guru, Advocate
For Respondents	:	Mr. Yogendra Pandey and Mr. Animesh Tiwari, Advocates

Hon'ble Shri Justice P. Sam Koshy**Order On Board****13.12.2021**

1. The challenge in the present writ petition is to the show cause notice issued by the respondents vide Annexure P-1 dated 01.12.2021. Vide the said show cause notice the respondent authorities have called upon the explanation of petitioner as to why appropriate

proceedings should not be initiated against the petitioner for the alleged suppression of material fact that the Kerala Medical Services Corporation Limited has already blacklisted one of the products of petitioner establishment vide order dated 07.05.2021. The show cause notice has been issued in terms of Clause-2.1(xii) whereby it was mandatorily required for the petitioner to intimate the respondent Corporation in case the petitioner firm or company is blacklisted by any other State Govt. or Central Govt. or any other Drug Procurement Agency.

2. Learned counsel for the petitioner submits that the show cause notice at the outset is not tenable for the reason that the show cause notice has been issued beyond the contract period and therefore the same would not be maintainable. According to the petitioner, the contract came to an end for all practical purposes on 21.04.2021 and the development of the petitioner's product being blacklisted by the Kerala Medical Services Corporation Limited was of a date subsequent to the completion of the contract period i.e. on 07.05.2021. On this ground the show cause notice would not be tenable. The last contention that the learned counsel for petitioner raises is that the development that took place at the level of the Kerala Medical Services Corporation Ltd. was at the peak of Covid-19 pandemic with a nationwide lock-down period and therefore appropriate steps could not be taken by the petitioner under the bonafide belief and reason.
3. Learned counsel for the respondent Corporation on the other hand opposing the petition submits that the petition is premature at this juncture for the reason that it is only a show cause notice which has

been issued. The petitioner can very well submit his explanation in respect of the allegations made in the show cause notice and the explanation would be considered in accordance with the agreement entered into between the parties and an appropriate order would be passed which would otherwise be challengeable.

4. Given the aforesaid facts and circumstances of the case, particularly taking into consideration the submissions put forth by the counsel for the parties, the writ petition at this juncture stands disposed of directing the petitioner to approach the respondent Corporation by submitting his reply/explanation to the show cause notice. The petitioner would be free to take all the objections that he has raised in the present writ petition including the legal grounds and the factual grounds in his reply/explanation which in turn shall be duly scrutinized and considered by the respondent authorities while deciding the show cause proceedings. If the petitioner has not submitted his reply to Annexure P-1 till now, the petitioner can very well submit his explanation within a period of 7 days from today and the authorities concerned shall duly consider the same and pass a reasoned and speaking order strictly in accordance with the provisions governing the field and also as per the agreement entered into between the parties if at all if they are still applicable.
5. The writ petition accordingly stands disposed of.

**Sd/-
(P. Sam Koshy)
Judge**