



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.10.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.18134 of 2021

and

W.M.P. (MD)Nos.14978 and 14979 of 2021

WEB COPY

B.Ganesan

... Petitioner

Vs.

1.Union of India,
Represented by the Principal Secretary,
Minsitry of Heavy Industries,
Government of India,
Room No.174, Udyog Bhawan,
New Delhi-110 001.

2.Bharat Heavy Electricals Limited, (BHEL),
Represented by the Deputy Manager-WCM,
Bharat Heavey Electricals Limited, (BHEL)
Thiruverumbur, Tiruchirappalli-620014.

3.Bharat Heavy Electricals Limited, (BHEL),
Represented by the Additional General Manager,
Bharat Heavey Electricals Limited, (BHEL)
Thiruverumbur, Tiruchirappalli-620014.

... Respondents

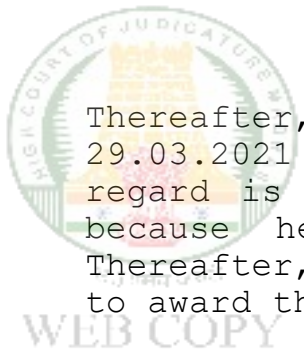
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records connected with the impugned notice in Ref:BHEL/MM/ULC/SCN/Raaga dated 09.09.2021 issued by the third respondent and quash the same as illegal, consequently, direct the respondents 1 and 2 to take appropriate action against the third respondent by considering the petitioner's representation dated 29.09.2021 in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.R.Alagumani

ORDER

The petitioner assails the show cause notice dated 09.09.2021 by which the petitioner was called upon to show cause as to why action should not be initiated against the petitioner under the applicable guidelines for suspension of business dealings.

2.The petitioner states that he had submitted a bid for a contract relating to housekeeping works for the Bharat Heavy Electricals Limited. He was declared as the highest bidder.



Thereafter, the petitioner states that he issued a communication on 29.03.2021 seeking to withdraw his bid. The reason cited in such regard is that the bid submitted by the petitioner was very low because he was not equipped with the requisite information. Thereafter, the second respondent refloated the tender and proceeded to award the contract.

3. In these facts and circumstances, the impugned show cause notice was issued to the petitioner. Upon receipt of such show cause notice, the petitioner submitted a reply dated 22.09.2021 by which the petitioner explained that the tender documents did not specify the total number of workers to be engaged and the total cleaning area in square feet. On account of not being provided the requisite information, the petitioner had submitted a low bid. Therefore, the petitioner requested that no action be taken against him for subsequently withdrawing the bid. Further representations were also submitted in such regard on 29.09.2021. The present writ petition is filed in these facts and circumstances.

4. The petitioner has assailed a show cause notice. In fact, such show cause notice is assailed after submitting not only a reply thereto but also a further representation. In judicial review, a show cause notice is not interfered with unless such show cause notice is issued *ex facie* without authority or jurisdiction. It is not the petitioner's case that Bharat Heavy Electricals Limited does not have the authority or jurisdiction to issue the impugned show cause notice. It is a separate matter that blacklisting visits the person blacklisted with severe consequences and, therefore, the law requires that such blacklisting should be resorted to only after providing reasonable opportunity and strictly in accordance with applicable rules or guidelines in such regard. In the case at hand, the show cause notice adverts to the "Guidelines for Suspension of Business Dealings with Suppliers/Contractors". Therefore, it is needless to say that Bharat Heavy Electricals Limited should comply strictly with such guidelines before proceeding further in the matter.

5. Accordingly, the petitioner has failed to make out a case to interfere with the impugned notice. Therefore, W.P.(MD).No.18134 of 2021 is dismissed without any order as to costs by leaving it open to the petitioner to challenge the order of blacklisting, if issued by the second and third respondents. Consequently, W.M.P.(MD) Nos.14978 and 14979 of 2021 are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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W.P(MD)No.18134 of 2021

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1.The Principal Secretary,
Union of India,
Minsitry of Heavy Industries,
Government of India,
Room No.174, Udyog Bhawan,
New Delhi-110 001.

**W.P (MD) No.18134 of 2021
07.10.2021**

SRK(CO)/RS (22.10.2021) 3P 2C