

11.04.2022.
Court No.13
Item No. 18
ap

W.P.A. No. 6253 of 2022

**Shree Durga Industries
Versus
Union of India & Ors.**

Mr. Arik Dutta,
Mr. Rahul Karmarka,
Mr. Jibantaraj Dan Roy,
Mr. Pankaj Agarwal,
Ms. Paramita Maity.

...For the petitioner.

Mr. Saikat Basu.

...For the UOI.

Affidavit-of-service filed in Court today be taken on record.

The writ petitioner is aggrieved by an order dated March 12, 2022 passed on the Government e-Marketplace (GeM) Portal.

The petitioner was show-caused under the impugned order and was kept on a 'Watch List'. The infringement, according to the Administrator, is that the petitioner has auto cancelled/declined for Direct Purchase/L-1 purchase on GeM. In other words the writ petitioner has refused to make supplies on order received by him on the GeM Portal.

The petitioner's conduct was therefore deemed as a 'severe deviation'. He was placed under Watch List and his account has been suspended.

Counsel for the petitioner would submit that the orders were far below the minimum executable quantity declared by the petitioner on the website i.e.

1000 kilograms. The three orders were for less than 50 kilograms. It is, therefore, submitted that the question of any infringement by the petitioner of any Rule of the Incident Management GeM 3.0 does not and cannot arise.

It is alternatively submitted that even assuming for the sake of argument that the petitioner may have committed any infringement, the same should come under the of 'mild deviation', category.

This Court is of the view that any examination of propriety of the decision taken by the GeM by the Court, would amount to sitting in appeal over the decision.

Be that as it may, this Court is the view that the matter should be revisited manually and physically by the Administrator of the GeM.

The petitioner may submit a formal representation to the GeM by e-mail tomorrow. The Administrator shall within a period of seven days thereafter, reconsider and revisit the facts and the undertakings of the petitioner, in the light of the infringement found committed by the petitioner. The incident management clauses shall be appropriately applied.

A reasoned order in this regard may be passed by the GeM, and the same shall be communicated to the petitioner by e-mail immediately.

With the aforesaid observations, the instant writ petition shall stand disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)