

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-11431-2019(O&M)
Date of decision: 04.05.2022

M/s. Magic Mind Media Solutions Pvt. Ltd.

... Petitioner

Versus

Municipal Corporation, Faridabad and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. Viren Jain, Advocate, for the petitioner.

Mr. Deepak Balyan, Additional Advocate General, Haryana.

RAVI SHANKER JHA, C.J. (Oral)

This petition has been filed by the petitioner being aggrieved by order dated 05.03.2019 (P-8) passed by the Commissioner, Municipal Corporation, Faridabad.

The brief facts leading to filing of the present petition are that the petitioner participated in tender proceeding initiated by the respondent-Corporation for Development, Marketing and Maintenance of Unipoles and Gantries in Faridabad, for Municipal Corporation, Faridabad, which was floated in August, 2018. Pursuant to the proceedings undertaken by the authorities, the petitioner was held to be the successful bidder on 31.10.2018 and a Letter of Intent (LOI) was issued in its favour. Instead of executing a concession agreement with the respondent(s) pursuant to issuance of LOI

and furnishing of performance/bank guarantee from a Scheduled Commercial bank for the requisite sum, and complying with the other obligations under the Letter of Intent, the petitioner filed representations one after another raising several issues. As the petitioner failed to execute the concession agreement and deposit the necessary bank guarantee, the authorities issued a show cause notice to the petitioner as to why the LOI may not be withdrawn, earnest money deposited by the petitioner may not be forfeited, why the financial loss suffered by the Corporation may not be recovered and as to why criminal proceeding/action for breach of trust may not be initiated against him. The petitioner was given last opportunity to file a reply as well of personal hearing on 05.03.2019 and thereafter, the impugned order (P-8) was passed by the authorities:

“7. In view of the facts, details and discussions made hereinabove:

- i) The Letter of Intent in question is hereby withdrawn;**
- ii) The earnest money deposited by the said Agency is hereby forfeited;**
- iii) The Agency is hereby black-listed;**
- iv) The financial losses sustained by the MCF should be worked out and recovered in due course of law from the said Agency.**
- v) Criminal action against the said Agency for breach of trust should also be initiated.”**

The petitioner being aggrieved has filed the present petition.

Learned counsel appearing for the petitioner, after arguing at length, submits that he does not wish to press the petition as far as his challenge to withdrawal/cancellation of Letter of Intent and forfeiture of

earnest money deposited by the petitioner is concerned. He submits that the petitioner only wishes to press the issues regarding blacklisting and coercive measures for recovery of financial loss and criminal action proposed by the authorities. He further submits that the authorities had issued a show cause notice to the petitioner on 07.02.2019 (P-6). In the said show cause notice, the respondent-authorities did not indicate that they also proposed to blacklist the petitioner in accordance with Clause 2.12.6 of the Request for Qualification (RFQ). However, he fairly concedes that notice regarding recovery of financial loss and initiation of criminal proceedings was issued to the petitioner. Learned counsel for the petitioner submits that in view of the law laid down by the Supreme Court in Gorkhas Security Services v. Govt. of NCT of Delhi and others, 2014(9) SCC 105; Joseph Vilangandan v. The Executive Engineer (P.W.D.), Ernakulam and others, 1978(3) SCC 36; UMC Technologies Private Limited v. Food Corporation of India and another, 2021(2) SCC 551; K.G. Bhandari v. Delhi Jal Board & Ors., 2003 (102) DLT 938; and Rajesh Pathak v. State of Madhya Pradesh and others, 2012(15) RCR (Civil) 348, as a specific and clear notice detailing the grounds as well as the proposed action of blacklisting was not issued to the petitioner, therefore, he may be relegated and permitted to approach the respondent-authorities by filing a representation in that regard. He submits that the petitioner would file a detailed representation regarding the proposed recovery of financial loss, initiation of criminal proceedings and blacklisting before the authorities.

Learned Additional Advocate General appearing for the State of Haryana submits that in case the petitioner does so, the authorities would

consider the petitioner’s representation and take a decision thereon by passing a reasoned order expeditiously in accordance with law.

In view of the submissions made by learned counsel for the petitioner as well as the statement of learned State counsel, the petition stands disposed of.

(Ravi Shanker Jha)
Chief Justice

(Arun Palli)
Judge

04.05.2022
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO