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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 25th March, 2022

+ W.P.(C) 4987/2022

MONTY Petitioner

versus

UNION OF INDIA & ORS. Respondents

Advocates who appeared in this case:

For the Appellants: Mr. Jitender Mehta, Advocate

For the Respondent: Mr. Mritujya Chaudhary and Ms. Poonam,
Advocates for R-1 to R-4.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J

CM APPL. 14821-22/2022 (Exemption)

Allowed, subject to all just exceptions.

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1. Petitioner impugns letter dated 11.03.2022 whereby the respondent has stated that the termination of the contract of the petitioner affected by order dated 27.10.2021 is correct and holds

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good. Further, petitioner has been debarred from participating in the tender invited by Delhi Division for next two years.

2. Learned counsel for the petitioner submits that the impugned termination letter dated 11.03.2022 is bereft of any reasoning and does not even take into account the response given by the petitioner to the show cause notice.

3. Learned counsel further submits that earlier a termination letter dated 27.10.2021 which is also referred to the impugned communication dated 11.03.2022, was issued. However, the same was issued on ground different than the ground which was put to the petitioner.

4. Learned counsel submits that in the first show cause notice dated 19.07.2021, the only ground mentioned was with regard to alleged non-payment of the licence fee.

5. Learned counsel submits that there is a shortfall in payment of licence fee on account of the respondent not granting any remission to the petitioner in terms of the Circular of the Railway Board.

6. He submits that thereafter another show cause notice dated 18.08.2021 was given which was duly responded to on 25.08.2021. Even, in the said show cause notice, the only ground was with regard



to the alleged non-payment of the licence fee.

7. Learned counsel submits that thereafter the termination letter dated 27.10.2021 was issued which was on grounds other than the grounds mentioned in the show cause notice.

8. Learned counsel submits that the petitioner had thereafter filed an appeal before the DRM, Northern Railway. He submits that even though the appeal is pending a Revised Show Cause Notice was issued to the petitioner on 01.02.2022 wherein apart from the issue of non-payment, there was a brief reference to alleged illegal parking of buses in the allotted parking-cum-stacking area.

9. Learned counsel submits that petitioner had duly replied to the said allegations by his reply dated 07.02.2022, however, in the impugned termination letter dated 11.03.2022, there is no consideration of the reply given by the petitioner to the said show cause notice.

10. Issue notice. Notice is accepted by learned counsel appearing for respondent/UOI.

11. Learned counsel for the respondent disputes that the appeal has not been disposed of by the DRM. He submits that the DRM has already disposed of the appeal.



12. With the consent of the parties, petition is taken up for consideration today.

13. Perusal of the impugned termination letter dated 11.03.2022 shows that the respondents have merely stated that the reply given by the petitioner is not tenable and devoid of any merits and have reiterated their earlier order dated 27.10.2021.

14. Perusal of the show cause notice issued prior to the order dated 27.10.2021 shows that the ground on which the said order has been passed was not put to the petitioner and petitioner has not even been asked to respond to any of the allegations that form the subject matter of the termination order.

15. Subject allegations were put to the petitioner for the first time in the show cause notice dated 01.02.2022 which was replied to by the petitioner. However, in the impugned communication dated 11.03.2022 there is no consideration of the reply given by the petitioner.

16. Consequently, the impugned termination letter /order cannot be sustained.

17. Accordingly, termination letter dated 11.03.2022 and 27.10.2021 are set aside.



18. The petition is disposed of in the above terms.

19. It is, however, open to the respondent to pass a fresh speaking order in accordance with law on the show cause notices dated 27.09.2021, 18.08.2021 and 01.02.2022 in accordance with law.

20. It is clarified that this Court has neither considered nor commented upon merits of the contentions of either party. All rights and contentions of parties are reserved.

SANJEEV SACHDEVA, J

MARCH 25, 2022

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