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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

*Reserved on: 18<sup>th</sup> October, 2022**Date of decision: 22<sup>nd</sup> December, 2022*

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**W.P.(C) 8342/2020 & CM APPL. 27045/2020**

VA TECH WABAG LIMITED

..... Petitioner

Through: Mr. Sandeep Sethi, Sr. Advocate with  
Mr. Neeraj Kumar and Mr.  
Meenakshi Jha, Advocates.  
(M:9313127275)

versus

DELHI JAL BOARD

..... Respondent

Through: Mr. Kunal Anand, Ms. Surabhi  
Katyial, Ms. Shivani Sharma and Ms.  
Saloni Mahajan, Advocates.

**CORAM:****JUSTICE PRATHIBA M. SINGH****JUDGMENT****Prathiba M. Singh, J.****BRIEF FACTS**

This pronouncement has been done through hybrid mode.

1. This writ petition has been filed on behalf of the Petitioner – VA Tech Wabag Ltd. challenging the notice bearing no. F-29(KO)/DJB/EE(SDW)-IV/2020/1802 dated 15<sup>th</sup> October 2020 (*hereinafter*, “*blacklisting order*”) issued by the Respondent – Delhi Jal Board (*hereinafter*, “*DJB*”) debarring the Petitioner from participating in future works/ tenders/bids of the DJB for three years. The debarment period is from 15<sup>th</sup> October 2020 to 15<sup>th</sup> October 2023. The operative portion of the blacklisting order is set out below:

*16. AND WHEREAS in view of above and taking into consideration all the facts and records, as per the*

*recommendations of Debarment Committee who have unanimously come to the conclusion that:*

*“M/s VA Tech Wabag Limited is hereby debarred for the period of 3 (Three) years from participating directly or indirectly in any work/tender/bid connected with Delhi Jal Board.”*

*17. AND WHEREAS approval was obtained from the Competent Authority for “Debarring M/s VA Tech Wabag Limited for the period of 3 (Three) years from participating directly or indirectly in any work/tender/bid connected with Delhi Jal Board.”*

*18. Therefore, Executing Agency M/s VA Tech Wabag Limited is hereby conveyed that “M/s VA Tech Wabag Limited is debarred for the period of **3 (Three) years with immediate effect** from participating directly or indirectly in any work/tender/bid connected with Delhi Jal Board.”*

2. The case of the Petitioner is that it was awarded a contract dated 12<sup>th</sup> June, 2008 for the 45 MGD Sewage Treatment Plant, Phase-IV at Kondli, Delhi (*hereinafter, “Project”*). The said contract involved two components i.e., construction of the treatment plant and its maintenance and operation for a period of 10 years thereafter. The total worth of the contract was approximately Rs.190 crores, out of which construction cost was almost Rs.173 crores and 10 year operation and maintenance cost was approximately Rs.17 crores. The detailed obligations of the parties under the contract have not been placed on record. The construction of the said Project is stated to have been completed on 31<sup>st</sup> January, 2016. Thereafter, the maintenance and operation of the Project was to be carried out by the Petitioner as per the terms of the contract. It is in respect of this obligation that disputes have arisen between the parties.

3. In view of various complaints from people living in nearby residential colonies, RWAs of Mayur Vihar and public representatives received by the DJB regarding the foul smell originating from the Project and the underperformance of the Project, show cause notices dated 25<sup>th</sup> May, 2016, 1<sup>st</sup> March 2017 and 24<sup>th</sup> March 2017 were issued by the DJB to the Petitioner. Vide these notices the Petitioner was given show cause as to why:

- (i) technical audit by reputed agency ought not to be conducted;
- (ii) improvements and modifications in the plant ought not to be carried out at the risk and cost of the Petitioner by awarding O&M contract to third party to ensure proper functioning of the plant;
- (iii) the loss on account of the deficit in electricity generation ought not to be recovered from the Petitioner;
- (iv) the Project had not been properly maintained in terms of internal road network, waste disposal, sanitation, housekeeping, landscape etc and the guaranteed automation had not been maintained;
- (v) the effluent parameters of the Project did not meet the DJB's required standards and the sludge was not disposed of in a safe and environment friendly manner in terms of the contract.

4. Subsequently, Centre for Rural Development IIT Delhi was appointed by the DJB for conducting process audit of the Project at the risk and cost of Petitioner. IIT Delhi conducted the audit and submitted its report on 17<sup>th</sup> January 2018, wherein it wherein it broadly observed that:

- (i) the plant was adequately designed for the purposes of waste water treatment, sludge handling system capacities, hydraulic systems etc;
- (ii) there were operational issues with the sludge pumping systems;
- (iii) primary sludge thickener systems were not functional, automatic control and sludge transfer systems were also absent;
- (iv) sludge transfer system from primary sludge sump was not automatically controlled;
- (v) power generation system was unstable;
- (vi) there was high level of sulphide in the raw sewage;
- (vii) there were extensive odour problem;
- (viii) the maintenance of diffuser pipe was also not adequate.

5. Vide communication dated 9<sup>th</sup> February, 2018 the DJB gave an opportunity to the Petitioner to remove the deficiencies illustrated by IIT Delhi in their report and a proper schedule was sought for removal of the said deficiencies. There were several letters sent by the DJB post the IIT Delhi audit till April, 2020, however the same are not on record.

6. After the outbreak of the Covid-19 pandemic, the Petitioner sought to invoke the *force majeure* clause in respect of the operation and maintenance contract on the ground that there would be adverse impact on the various deliverables under the contract.

7. Thereafter, show cause notice dated 22<sup>nd</sup> June, 2020 was issued by the DJB listing out the various letters previously issued by it. In the said show cause notice, the deficiencies pointed out in the earlier letters were highlighted once again and explanation was sought as to why the Petitioner ought not to be debarred. The Petitioner in its reply to the said show cause

notice claimed that in respect of maintenance of the electrical and mechanical equipment, it had incurred more costs than it had actually received from the DJB as the DJB had withheld payments. The Petitioner also claimed that the DJB had to install an odour control unit as the same was not part of the Petitioner's contract. The other allegations were also denied by the Petitioner. The Petitioner invoked the notice of intent vide letter dated 1<sup>st</sup> September 2020 to terminate the contract. However, the same was rejected by the DJB.

8. In the meantime, a video had been uploaded on social media allegedly showing the Petitioner to be discharging raw/ untreated sewage directly into the Yamuna River. This led to an inspection of the Project by the Delhi Pollution Control Committee (DPCC) and DJC officials on 10<sup>th</sup> September, 2020. On 18<sup>th</sup> September 2020 a show cause notice was issued by the DPCC to the Petitioner on the ground that the Petitioner was found to be discharging raw/ untreated sewage directly into the Yamuna River.

9. In this background, the DJB debarment committee held a hearing on 28<sup>th</sup> September, 2020, wherein, personal hearing was afforded to the managing director of the Petitioner. The managing director failed to justify the Petitioner's performance, thus, the DJB issued the impugned Blacklisting order on 15<sup>th</sup> October, 2020 and debarred the Petitioner from participating in any future bids/tenders/works of DJB for a period of three years till October 2023. Aggrieved by the same the Petitioner has preferred this writ petition.

10. In this writ petition, *vide* order dated 22<sup>nd</sup> October, 2020, the DJB was directed by this Court not to circulate the copy of the impugned order or factum of blacklisting of the Petitioner to third parties, unless so required by

the third parties. Subsequently, on 24<sup>th</sup> September, 2021, a Sole Arbitrator is also stated to have been appointed for adjudicating the disputes between the parties.

11. Vide order dated 2<sup>nd</sup> December, 2021, this Court found that various events have taken place after the passing of the impugned Blacklisting order, which would have bearing on the case. Accordingly, affidavits were sought from both the parties, placing on record subsequent events that have transpired between the parties.

12. Finally, on 20<sup>th</sup> December, 2021, the contract between the parties was terminated by the DJB and the bank guarantee of approximately Rs.1.75 crores invoked. Subsequently, in the arbitration proceedings *interim* relief was sought before the Id. Sole Arbitrator *qua* the bank guarantee. The same was rejected vide procedural order dated 23<sup>rd</sup>, December 2021 passed by the Id. Sole Arbitrator.

### **SUBMISSIONS**

13. Submissions made by the Mr. Sandeep Sethi, Id. Senior Counsel for the Petitioner:

- (i) That the Blacklisting order is for breach of contractual performance, however no notice had been given by the DJB regarding the said breach. DJB has failed to invoke the Contractual Dispute Resolution Clause and no penalty or liquidated damages been imposed by the DJB for the said breach of contractual performance.
- (ii) Petitioner's reply to the show cause notice dated 22<sup>nd</sup> June 2020 has been rejected by giving six grounds which are completely alien to the grounds specified in the reply. This is violative of principle of natural justice as the judgement of *Saco Allied Products Ltd. v.*

*Commissioner of Central Excise [(2005) 7 SCC 159]* provides that the show cause notice has to contain all the allegations, failing which the process would be violative of the principles of natural justice.

- (iii) The hearing officer has to be the person, who passes order, the same cannot be done by a different person as held in *Gullapalli Nageshwara Rao v. APSRTC [1959 Supp (1) SCR 319, Automotive Tyre Manufacturers Association v. Designated Authority [(2011) 2 SCC 258]*. In the present case, since the Blacklisting order was issued by the Executive Engineer and the hearing was done by a different set of officials, thus, the impugned Blacklisting order is invalid.
  - (iv) As per the judgements in *Indian Oil Corporation v. SPS Engineering [2006 (88) DRJ 93 (DB)]*, *Prakash Atlanta JV v. NHAI [ILR (2010) V Delhi 38]* the present case would at best be an arbitrable dispute and certainly not a case for debarment for a period of three years.
  - (v) The Blacklisting order has already been effected for almost 2 years and the same has resulted in enormous damage to the Petitioner.
14. Submissions made by the Mr. Kunal Anand, Id. Counsel for the Respondent:
- (i) As per Chapter 9 Clause 16, of the *SOPs for CPWD Works Manual, 2019* if there is any violation or breach of terms and conditions, the organization can resort to debarment. DJB has strictly followed the entire process i.e. the show cause notice was issued to the Petitioner on 22<sup>nd</sup> June 2020, the reply was received on 29<sup>th</sup> June, 2020, and the Executive Engineer on the basis of the contents of the reply gave a recommendation on 3<sup>rd</sup> September 2020. Thereafter, the Chief Engineer had referred the matter for the legal advice. The debarment

committee considered the entire matter and gave a personal hearing to the Petitioner on 28<sup>th</sup> September, 2020 before issuing the impugned Blacklisting order.

- (ii) The period of debarment is within bounds as per the judgement of ***M/S Daffodills Pharmaceuticals Ltd. & Anr V. State Of U. P. & Anr. (Civil Appeal No. 9417 of 2019)*** which states that 3 to 5 years is a reasonable period for debarment depending upon the facts of the case.
- (iii) Issuance of the order of blacklisting was a result of various meetings dated 7<sup>th</sup> September 2020, 16<sup>th</sup> September 2020 and 28<sup>th</sup> September 2020 held by the Debarment Committee.
- (iii) DJB has complied with the requirements of Principles of Natural Justice.
- (iv) The material before the debarment committee included the material placed by the DJB along with its show cause notice, material found in the inspection by the DPCC and the video showing discharge of effluents by the Petitioner into the river Yamuna. All these factors were taken into consideration holistically while making the recommendation for debarring the Petitioner.
- (v) DJB has adhered to the principles relating to procedure that must be undertaken for debarment as per the judgement of ***Diwan Chand Goyal v. National Capital Region Transport Corporation (WP(C) 3301/2020)***
- (vi) The hearing was given to the Petitioner by the debarment committee consisting of three Chief Engineers, two Senior Engineers, Director and Member (Dr), thus the Petitioner's argument that the power to

conduct hearing is vested with the Executive Engineer, does not hold ground.

- (vii) As per the judgement of *Diwan Chand Goyal (supra)* hearing is not required and serving of a show cause notice seeking reply is sufficient.
  - (viii) Insofar as the aspect of discharge of sewage not being part of the show cause notice is concerned, the show cause notice was dated 22<sup>nd</sup> June, 2020. However, subsequently a video was released on social media showing that untreated effluents were being discharged into the river Yamuna. When this was discovered, a letter was issued to the Petitioner. Further, in the hearing the debarment committee gave the Petitioner an opportunity to deal with the said issue.
15. Rejoinder Submissions made by the Mr. Sandeep Sethi, Id. Senior Counsel for the Petitioner
- (i) The Blacklisting order issued by the DJB was prior to the DPCC's show cause notice dated 18<sup>th</sup> September, 2020, thus the Blacklisting order could not have been on the basis of the DPCC's show cause notice.
  - (ii) In respect of the allegation that the Petitioner was raising untreated sewage is concerned, DPCC's show cause notice to the Petitioner dated 18<sup>th</sup> September, 2020 shows that there was no affluent discharge that has been made by the Petitioner.
  - (iii) The debarment notice is contrary to the Clause 16, Chapter 9 of *SOPs for CPWD Works Manual, 2019* as under the said manual, debarment must be decided by the Chief Engineer, however in the current case, the Executive Engineer has decided the debarment.

- (iv) As per Clause 1,3 & 6 of the *Broad guidelines for processing of cases regarding blacklisting of firms in E&M wing of DJB*, 2015 the Chief Engineer was required to give a personal hearing and the final decisions was to be passed by the CEO, however in the present case order was passed by the Executive Engineer and the hearing was given by the Chief Engineer. Thus, the correct procedure was followed.
- (v) The show cause notice dated 22<sup>nd</sup> June, 2020 issued by the DJB, mentioned only one allegation in respect of loss. However, the impugned Blacklisting order mentioned four kinds of losses i.e. power loss, loss under the provisions of Environment Protection Act,1986, loss of endangering life and property, loss of reputation.

### **ANALYSIS AND FINDINGS**

16. The background facts have already been set out above. In the above background, the issue under consideration is as to whether the impugned Blacklisting order dated 15<sup>th</sup> October, 2020, by which the Petitioner has been debarred for a period of 3 years, is valid and legally justified. The issues are restricted to the issue of debarment and whether the same is justified in these facts. The broad grounds raised by the Petitioner are:

- (i) That the Petitioner was not given an opportunity to present its case before the debarment committee and thus, the Blacklisting order is violative of principles of natural justice.
- (ii) That the proper procedure for debarment was not followed.
- (iii) That the debarment period is not justified and has resulted in civil consequences to the Petitioner.

**On the violation of Principles of Natural Justice**

17. The correspondence on record shows that various grievances were raised by the DJB against the Petitioner since the commissioning of the Project. There are numerous letters sent by the DJB listing the shortcomings and deficiencies in the Project. The Petitioner has replied to a number of these letters. The show cause notice dated 22<sup>nd</sup> June 2020 was a culmination of the entire correspondence between 2016 to 2020.

18. The external agency i.e. IIT, Delhi in its report dated 17<sup>th</sup> January 2018 itself had pointed out the various deficiencies which are also reiterated by the DJB in its various notices and surprise inspections. However, the recommendations made by the IIT as also the steps to overcome the shortcomings were not implemented, resulting in the continued underperformance of the Project, adverse impact on the environment and ecology, alleged release of untreated sewage into Yamuna. The complaints of the residents who were suffering due to foul smell in nearby areas are undisputed. These allegations are of such a serious nature that even if the same are partially true, this Court would not interfere in the same.

19. The cross allegation raised by the Petitioner *prima facie* to this Court would appear to be a sort of blame game being resorted to by the Petitioner. It cannot be accepted by this Court that the DJB, DPCC, NGT and IIT, Delhi were wrong in their assessment of the nature of the deficiencies in the Project. The Petitioner was repeatedly cautioned about non-maintenance, about electrical and mechanical equipment, foul odour being suffered by the

residents of the area and untreated sewage being released into the Yamuna River.

20. The Petitioner was given repeated opportunities to deal with the allegations by the DJB and the DPCC in the replies which were filed by the Petitioner as also during the detailed personal hearing. Multiple show cause notices were issued, replies were filed and a detailed hearing was given to the Petitioner, thus fulfilling the obligation of due process. The settled law on the adherence to principles of natural justice, as laid down by the Supreme Court in **CA No. 3498/2020** titled **State of UP v. Sudhir Kumar Singh & Ors.** reads:

*“39. An analysis of the aforesaid judgments thus reveals:*

*(1) Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.*

*(2) Where procedural and/or substantive provisions of law embody the principles of natural justice, **their infraction per se does not lead to invalidity of the orders passed.** Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.*

*(3) **No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it.** This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.*

*(4) In cases where facts can be stated to be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when*

*there is, in fact, no prejudice caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.*

*(5)The “prejudice” exception must be more than a mere apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the non-observance of natural justice.”*

As laid down by the Supreme Court, the adherence to principles of natural justice cannot be viewed in a straight jacketed fashion. The overall circumstances need to be considered and the prejudice ought to be weighed. The Petitioner herein has had multiple opportunities and the impugned debarment order is a culmination of long-drawn correspondence, inspections, time given to take remedial measures – all of which did not yield results. Personal hearing was also granted to the Petitioner. Thus bearing in mind the principles laid down in ***State of UP v. Sudhir Kumar Singh & Ors (supra)*** it cannot be claimed by the Petitioner that the DJB did not follow the principles of natural justice.

**On proper procedure not being followed**

21. Insofar as the correct debarment procedure not being followed is concerned, the DJB’s *Broad guidelines for processing of cases regarding blacklisting of firms in E&M wing, 2015* provide the following procedure:

**“Broad guidelines for processing of cases regarding blacklisting of firms in E&M wing of DJB**

***1. The concerned EE, where the case has been processed / contract agreement has been maintained and who processes***

*all important / significant details, related with the case, shall issue a show cause notice to the concerned firm, indicating / mentioning therein the specific reasons of the irregularity / failure on the part of the firm with reply to be given within 10 days time. The description, for the irregularity / failures on the part of the firm in the show cause notice, should be specific, unfailing and sustainable legally, should the same be subjected to court's scrutiny.*

*2. In case no reply is received from the firm within 10 days time, the reminder shall be issued to the firm, with request to reply on the matter and duly mentioning therein that in case no reply is received from the firm, in 10 days time, the case shall be processed further by the department, without giving more opportunities to the firm, for necessary action against the firm.*

*3. On receipt of reply from the firm or in case no reply is received from the firm, even after 10 days time of the reminder issued to the firm, the concerned EE shall process the case on file, making necessary recommendations given by the EE/SE on file, a personal hearing shall be given by CE concerned to the firm.*

*4. After receiving view point of the firm in the personal hearing, the case shall be processed by the EE for seeking legal advice in the matter from law office on the view point / contentions of the firm with due comments / recommendations, by the divisional office.*

*5. In case, firm does not attend the personal hearing, another letter may be issued to firm, giving a fresh date for the hearing and duly mentioning therein that in case the firm fails to attend this time also, the case shall be processed further by the department, without giving more opportunities to the firm, for necessary action against the firm.*

*6. After exhaust of all above mentioned procedures, EE shall process the case through his SE/CE, giving the comprehensive background information, including comments / recommendations on firm's reply/ view point legal advice etc, for placing it before the debarment committee comprising of Member (Dr), CE(VVW), CE(SDW), CE(E&M)*

*Planning, Dir (F&A), EO to the concerned Chief Engineer and any other officer, wished to be co-opted for taking a final decision into the matter and recommending the same to CEO for approval.*

*7. Care should be taken to send communications to the firm through speed post only, with a correct address mentioned in the letter.*

*8. The above procedures are only broad guidelines and can be modified according to the specific and unique nature of the case.”*

22. In the present case, the defaults in the maintenance and operation of the Project, were raised well in advance by the DJB, i.e. in 2016 itself. Adequate opportunities were given to the Petitioner to rectify the deficiencies. However, the Petitioner over a period of 5 years, continued to blame the DJB and the problem did not get resolved. The Debarment Committee itself consisted of a large number of senior officials of the DJB including the member, three chief engineers, one director, one member (Dr) and two senior engineers. The Executive Engineer prepared the note for Debarment Committee. It held meetings on 7<sup>th</sup> September, 2020, 16<sup>th</sup> September, 2020 and 28<sup>th</sup> September, 2020. In the last meeting, the Managing Director of the Petitioner was even given personal hearing. The minutes of the debarment committee meeting are as follows:

*The third debarment committee meeting was held on 28.09.2020 wherein Sh. Rajiv Mittal, Managing Director, M/s VATech Wabag Ltd. attended the meeting and contested the case before the committee. The firm raised the issue of sulphide contents, excess flow at the STP, requirement of sludge beds for sludge disposal and force majeure etc.*

*The committee heard the views of firm intently. But the firm was unable to satisfy the committee with concrete reasons behind the non-operation of electrical and mechanical*

*equipments at the plant, its inability to stabilize the power generation, and its inability to achieve the treated effluent parameters on regular basis.*

*It was also informed to the committee that Delhi Pollution Control Committee (DPCC) vide its notice dated 18.09.2020 have issued Show Cause Notice to the firm under section 33(A) of Water(Prevention and Control of Pollution) Act, 1974 and u/s 31(A) of Air(Prevention and Control of Pollution) Act,1981. It was further brought to the notice of the debarment committee that Yamuna Monitoring Committee appointed by Hon'ble NGT have also vide their communication dated 21.09.2020 informed about malfunctioning of this sewage treatment plant.*

*The debarment committee after due deliberation and reviewing the present performance of the executing agency M/s VA Tech Wabag Ltd., which is operating & maintaining 45 MGD STP Kondli Phase-IV, recommends debarment of M/s VA Tech Wabag Limited from participating in any future bids/tenders/works to be undertaken by Delhi Jal Board for next 3 (Three) years.*

23. Thus, the broad procedure, which has been placed on record, under the DJB's *Broad guidelines for processing of cases regarding blacklisting of firms in E&M wing, 2015* has been clearly followed by the DJB. Thus, it cannot be alleged that the required procedure was not followed by the DJB.

**On period of debarment.**

24. Finally, coming to the question of the period of debarment. The contract executed by the DJB with the Petitioner is governed by the CPWD Works Manual, 2019. Chapter 9 Clause 16 of the said manual provides for the factors leading to the debarment and the period of debarment. The said Clause reads as under:

*16. If an agency does not start the work or does not perform the assigned work properly and/or in time, it shall be dropped from the list approved/short listed agencies and their deposits including performance guarantee etc. shall be forfeited. Such agencies shall be debarred for tendering for a period of three years within that Zone. Such action shall be decided by CE. This shall form part of the contract as special conditions.*

25. In view of the same it is clear that the DJB has the power to debar the Petitioner for a period of 3 years. Moreover as per the judgement of *M/S Daffodills Pharmaceuticals Ltd. & Anr V. State Of U. P. & Anr. (Civil Appeal No. 9417 of 2019)*, three to five years is a reasonable period for debarment depending upon the facts of the case.

26. There is no doubt that the debarment/blacklisting of is a serious matter for any company and would involve civil consequences as held by the Supreme Court in the case of *Eurasian Equipment & Chemicals Ltd. v. State of West Bengal, 1975 (1) SCC 70*.

27. However, the power of debarment in the present case cannot be said to have been exercised in an unbridled manner. The question of proportionality has been raised by the Petitioner. The total cost of the contract was almost Rs. 190 crores including the construction, operation and maintenance. The continuous monitoring and efficient working of the Project was clearly a major obligation of the Petitioner. There has been considerable correspondence and deliberations between the parties before imposition of debarment. The period of three years debarment cannot be held to be dis-proportionate owing to the severity of the situation involving sewage treatment and allegation of discharge of untreated sewage into the Yamuna river.

### **Conclusion**

28. In the facts of the present case, principles of natural justice have been duly complied with. Proper procedure has also been followed before issuing the impugned debarment/blacklisting order. The deficiencies that have been pointed out are very serious and the alleged release of untreated/raw sewage into the Yamuna river is a cause of concern which involves an element of public interest. The admitted foul smell in the entire area, has impacted residents in the area and also has severe adverse impact on the environment and ecology.

29. Under these circumstances, this Court is not inclined to either quash the debarment or to reduce the period of debarment. However, it is clarified that the present judgement is broadly based on the correspondence and various documents on record. The Court has not conducted a fact finding exercise in the present case as the parties are already in arbitration.

30. The present findings shall have no bearing on the merits of the dispute between the parties, which is pending before the Id. Sole Arbitrator.

31. The writ petition is, accordingly, dismissed with no order as to costs. Accordingly, the Blacklisting order shall operate for the period from 15<sup>th</sup> October 2020 to 15<sup>th</sup> October 2023.

32. All pending applications, if any are disposed of.

**PRATHIBA M. SINGH**  
**JUDGE**

**DECEMBER 22, 2022/dk/kt**