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

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Date of Judgment: 14.10.2022

+ W.P.(C) 14575/2022 & CM APPL. 44652/2022 (Stay)
M/S SPSS MEDILINE THROUGH ITS
PARTNER

..... Petitioner

Through: Mr. Arush Bhandari, Advocate

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Asheesh Jain, CGSC with Mr.
Keshav, Mr. Gaurav Kumar,
Advocate and Mr. Abhishek
Khanna, GP for R-1
Mr. Shailendra Sharma, Advocate
for R-2&3

CORAM:

HON'BLE MR. JUSTICE GAURANG KANTH

GAURANG KANTH, J. (ORAL)

CM APPL. 44653/2022 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 14575/2022 & CM APPL. 44652/2022 (Stay)

3. This writ petition has been filed seeking quashing of notice dated 28.09.2022 and order dated 09.10.2022 passed by respondent No.2 GeM Admin., Government E-Market Place.
4. Learned counsel for the petitioner states that his account has been suspended for a period of sixty days i.e. from 09.10.2022 to

08.12.2022, without affording any opportunity of hearing to the petitioner. The impugned order notes that the petitioner registered with benami / fake identity or credentials for product Id No.5116877-68766535007-cat. Since the registration of benami / fake products is a severe offence in accordance with the GeM Incident Management Policy, the corporate authority had issued the impugned order.

5. The impugned order dated 09.10.2022 passed by GeM, Government E-Market Place reads as under:-

“Dear Sir/ Madam,

*Please note that in accordance with the GeM Incident Management policy and as decided by Competent Authority with regard to incident number **1189877**, the transactions from your GeM account have been suspended for transaction for a period of **60 days** starting from 09-Oct-2022 and ending on 08-Dec-2022. This is due to Registering with benami / fake identity or credentials for Product id- **5116877-68766535007-cat***

During such time your carted products (if any), will be removed from cart(s) and you will not be able to:

- 1) Enter into fresh transactions.*
- 2) Upload products.*
- 3) Participate in bids/RA. If already participated in the ongoing bids, your bids/RA will be withdrawn.*
- 4) Carted products will be taken out.*

However, you will be able to complete the transactions already finalized, such as delivery, payment receipt etc.

*Regards,
GeM Admin”*

6. Learned counsel for the petitioner further submits that on 28.09.2022, the petitioner has received an email along with an

attached Show Cause Notice wherein it was mentioned that home_labo_me07211458_clin_fu00028570 has been registered with a fake benami identity or credentials on GeM. Relevant portion of aforesaid Show Cause Notice dated 28.09.2022 reads as under:-

“Dear Sir/Madam,

It has been reported to GeM vide (Incident Number- 1189877) that the home_labo_me07211458_clin_fu00028570 has not been Registering with benami /fake identity or credentials on GeM. Such act on your part is considered as a serious GRAVE deviation as per Incident Management Policy of GeM.

You are required to provide your reply/comments within the initial 5 (five) calendar days of issue of this notice, in case no response is received, then you will be provided a final 5 (five) calendar days to provide your reply/comments, failing which auto action will be taken by the system against your account in accordance with the IM policy.

Kindly note that upon receipt of this Notice you are required to acknowledge the same on GeM portal.

It is to notify you that as per GeM GTC and GeM Incident Management Policy, all of your Seller entities using same PAN would be equally impacted by the action taken against you for your default/deviation under this incident. All your related entities under same PAN are therefore put under notice with this Show Cause Notice.

*Regards,
GeM Admin”*

7. Learned counsel further contends that the petitioner wrote several emails and made phone calls seeking clarification from the office of respondent No.2's but respondent No.2 had neither responded to

any of the Emails nor gave any satisfactory response to the phone calls. Details of the incident reflected in Annexure 13 shows that the respondent had suspended the account by auto action system.

8. The learned counsel for the respondent appears on advance notice and states that a quietus can be put to this litigation by deciding the appeal filed by the petitioner within five working days.
9. Let the present petition be treated as representation and respondent No.2 is directed to decide the representation and appeal filed by the petitioner within a period of five working days.
10. In the meantime, till the representation and appeal filed by the petitioner is decided, the impugned order dated 09.10.2022 passed by respondent No.2 is stayed.
11. If aggrieved, the petitioner is at liberty to challenge the order passed by the respondent No.2.
12. A copy of this order be given dasti under the signatures of the Court Master.
13. With the aforesaid direction, the writ petition and pending application stands disposed of.

GAURANG KANTH, J

OCTOBER 14, 2022

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