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WP No.17232 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-03-2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.17232 of 2016

And

WPMP Nos.14707 and 14708 of 2016

M/s.Senlogic Automation (P) Ltd.,
Represented by its Director R.Ravichandran
(Technical), Having its Registered Office at
No.52, Flat No.5-B, Gandhi Street,
West Mambalam,
Chennai-600 033 Represented by its
Director and Authorised Signatory
R.Ravichandran

.. Petitioner

VS.

1.The Executive Director/Wagon,
Government of India,
Ministry of Railways Research Designs and
Standard Organization,
Lucknow-226 001.



WP No.17232 of 2016

2.The Additional Member (PU),
Railway Board,
New Delhi.

3.EDME/Dev. Cell/Railway Board,
New Delhi.

4.Head Branch,
Central Bureau of Investigation,
CBI/ACB/Chennai,
Anti Corruption Branch,
Third Floor, Shastri Bhawan,
Haddows Road,
Chennai-600 006.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, calling for the records pertaining to the proceedings of the first respondent dated 22.03.2016 made in MW/CS/PEWB so as to quash the same.

For Petitioner : Mr.N.Jothi,
Senior Counsel for
Mr.S.Vinod.

For Respondents-1 to 3 : Mr.P.T.Ramkumar,
Standing Counsel for Railways.

For Respondent-4 : No Appearance



WP No.17232 of 2016

ORDER

WEB COPY

The Writ of Certiorari has been instituted to quash the order passed by the first respondent dated 22.03.2016, de-listing the petitioner from the list of RDSO approved supplier of electronic rail in-motion weighbridges with immediate effect.

2. The petitioner-M/s.Senlogic Automation is a Private Limited Company registered under the Companies Act, 1956. The petitioner-Company is engaged in the manufacture and supply of Electronic Weighing Systems of various applications, including rail in motion weighing system and rail static weighing system etc.

3. The learned Senior Counsel appearing on behalf of the petitioner during his opening arguments contended that Rules of Natural Justice has not been complied with in the case on hand. Thus the order impugned is to be set aside.



4. When the preliminary issue of non-compliance of Rules of Natural Justice has been raised, this Court allowed the learned Standing Counsel for the respondents 1 to 3 to reply for the allegations made.

5. The learned Standing Counsel for the respondents 1 to 3 made a submission that a criminal case was registered and the matter was being investigated by the CBI Officials. A charge sheet was filed and based on the CBI investigation, the petitioner was de-listed from the list of RDSO approved supplier of electronic rail in-motion weighbridges. Thus it was not an unilateral decision taken by the Railway Authorities and based on the CBI report, action was taken.

6. Admittedly, a criminal case was registered. Two accuseds were discharged from the criminal case. In any event, Rules of Natural Justice is the fundamental right ensured to the citizen under Articles 14 and 21 of the Constitution of India. Such Rules, at no circumstances, be waived without any valid reason.



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7. In the present case, perusal of the order impugned reveals that no show cause notice or an opportunity was provided to the writ petitioner before passing the impugned order, de-listing the petitioner-Company. The order of de-listing the petitioner-Company would result in civil consequences and therefore, an opportunity becomes mandatory.

8. The learned Standing Counsel for respondents 1 to 3 is unable to dispute the contention that no show cause notice was issued or an opportunity was provided to the writ petitioner-Company.

9. This being the factum established, the matter is to be remanded back to the first respondent for re-consideration.

10. Accordingly the order impugned passed by the first respondent in proceedings MW/CS/ PEWB dated 22.03.2016, is quashed. The mater is remanded back to the first respondent for fresh consideration. The first respondent is directed to issue show cause notice setting out the



WP No.17232 of 2016

facts and allegations, within a period of four weeks from the date of receipt of a copy of this order and on receipt of the show cause notice, the petitioner is at liberty to submit their explanations along with the documents, if any, within a period of three weeks from the date of copy of the show cause notice to be issued by the Competent Authority. Thereafter, the first respondent shall consider the materials available on record, take decision and pass final orders as expeditiously as possible. However, during the process of enquiry, the petitioner is not entitled to participate in any contract.

11. With the abovesaid directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

20-03-2023

Speaking Order/Non-Speaking Order.

Neutral Citation : Yes/No.

Internet : Yes/No.

Index: Yes/No.

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WEB COPY



WP No.17232 of 2016

S.M.SUBRAMANIAM, J.

Svn

WP 17232 of 2016

20-03-2023