

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

CWP-8736-2023

Date of decision : 27.04.2023

M/s Lakhbir Constructions

.....Petitioner

Versus

Union of India and others

....Respondents

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

Present: Mr. Naresh Markanda, Senior Advocate, with
Mr. Rohan Markanda, Advocate, and
Mr. Jagdeep Singh Rana, Advocate,
for the petitioner.

Ms. Puneeta Sethi, Senior Panel Counsel, UOI.

RAVI SHANKER JHA, CHIEF JUSTICE (Oral)

This petition has been filed by the petitioner firm being aggrieved by an order dated 12.04.2023 (P-9), vide which the respondent-authorities have held that the petitioner firm is not capable of handling more work, owing to cancellation of the contract awarded to it in the Jalandhar Zone. The petitioner firm is also aggrieved by the fact that on the basis of the aforesaid order, the respondent – authorities have rejected its tender in respect of subsequent work, vide order dated 22.04.2023 (P-11), stating therein that the petitioner is not eligible on account of “No” remark in WLR of HQ CEWC.

Learned Senior counsel for the petitioner submits that the petitioner firm has been placed in the list of the contractors who are incapable of handling more work, without providing it an opportunity of

hearing or giving any show cause notice. He submits that the petitioner has virtually been blacklisted without providing an opportunity of hearing, which is contrary to law, as has been held by the Supreme Court in **Kulja Industries Limited Versus Chief Gen. Manager Western Telecom Project BSNL and others, (2014) 14 SCC 731, Vetindia Pharmaceuticals Limited Versus State of Uttar Pradesh and another, (2021) 1 SCC 804** and **UMC Technologies Private Limited Versus Food Corporation of India and another, (2021) 2 SCC 551.**

Learned Senior Panel Counsel, Union of India, on advance copy, submits that on account of insufficient instructions, she is not able to state as to whether the petitioner firm has been given any notice or opportunity of hearing before passing of the order placing it in the list of contractors incapable of handling more work. She, however, fairly states that in case it has not been done so and the petitioner files a representation, the authorities would give the petitioner an opportunity of hearing and thereafter pass an order in accordance with law.

In view of the aforesaid statement of learned counsel appearing on behalf of the Union of India, the petition is disposed of with a direction that in case the petitioner files an application/representation before the authorities within a period of one week from today, seeking hearing for withdrawal of the order dated 12.04.2023 (P-9), the respondent – authorities would provide an opportunity of hearing to the petitioner, if so required, and take a decision thereon by passing a reasoned order. Learned counsel appearing on behalf of the Union of India undertakes that the said exercise would be completed and a

decision on the petitioner’s representation would be taken within a period of two weeks.

It is made clear that the authorities would not be influenced in any manner or feel restricted by the fact that vide order dated 12.04.2023, they have placed the petitioner in the list of contractors incapable of handling more work, and in case they find that the petitioner is entitled to get the work, an appropriate order shall be passed in that regard. It is also made clear that the petitioner firm would also be at liberty to move an application before the authority concerned seeking participation in the tender proceedings during the pendency of its aforesaid representation before the authorities.

It is further made clear that we have not expressed any opinion on the merits of the case and, therefore, the authorities would be at liberty to examine the matter keeping all the facts and facets into consideration and take a decision in accordance with law.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

April 27, 2023
ndj

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No