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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 5650 OF 2024**

**Everest Enterprises**

**.. Petitioner**

**Versus**

**Hindustan Aeronautics Ltd. & Anr.**

**.. Respondents**

Mr. Shyam Dewani a/w Chirag Chanani and Sachet Makhija  
i/by Dewani Associates for petitioner.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &  
ARIF S. DOCTOR, J.**

**DATE: 9<sup>th</sup> MAY, 2024**

**P.C.:**

- 1.** The affidavit of service tendered today by the learned counsel for the petitioner is taken on record.
- 2.** The Court vide order dated 18<sup>th</sup> April, 2024, had issued notices and as per the report of the office, the said notices have been served upon the respondents, however, no one has responded on behalf of the respondents.
- 3.** In these circumstances, we proceed to consider the prayer for grant of interim relief.
- 4.** Under challenge in this petition is an order dated 16<sup>th</sup> March, 2024 passed by the Deputy General Manager (Works), Hindustan Aeronautics Limited, Aircraft Overhaul Division, Nashik, whereby the petitioner has been debarred from

participating in further HAL tenders for a period of 24 months, i.e., two years from 23<sup>rd</sup> February, 2024 to 22<sup>nd</sup> February, 2026.

**5.** When we peruse the impugned order dated 16<sup>th</sup> March, 2024, what we find is that the order indicates two reasons for debarment, however, the order does not disclose that any notice, whatsoever, was issued to the petitioner before passing the same; neither does it show that the petitioner, in any manner, was associated with any inquiry preceding the impugned order dated 16<sup>th</sup> March, 2024. The reason indicated is that during the scrutiny of Bankers solvency certificate submitted by the petitioner while participating in the tender process, the said document was verified and the Bank concerned reported to the respondents that it did not issue the solvency certificate to the petitioner. The other reason indicated in the impugned order is that during the scrutiny of another document, namely, similar nature of work experience certificate, it was found that the petitioner had never worked with the employer which had issued the said work experience certificate.

**6.** The petitioner, however, states that said discrepancy, said to have been found during verification, is not attributable to the petitioner. In this regard the petitioner relies upon the solvency certificate dated 4<sup>th</sup> December, 2023 issued by the DCB Bank and has enclosed with the writ petition the balance confirmation letter and the balance confirmation slip issued by the DCB Bank which, according to the petitioner, show that the solvency certificate was issued. Similarly, the petitioner relies upon a letter issued by the Executive Secretary to ED

(CHT), Centre for High Technology, Ministry of Petroleum & Natural Gas, Government of India, Noida, wherein it has been clearly stated that the petitioner is working in CHD, Noida, since 2020. The said letter/communication is dated 27<sup>th</sup> February, 2024.

7. Thus, what we find that the petitioner has some explanation to offer, however, he was denied the said opportunity as no show cause notice has been issued to the petitioner before passing the impugned order.

8. It is settled law that debarring a firm from participation in any tender process by a public authority visits such a firm with serious civil consequences and accordingly before taking any decision of debarring, the party concerned needs to be issued a show cause notice mentioning therein the basis of intended action of debarment and requiring the party concerned to submit its explanation. Reference in this regard may be had to the judgment of the Hon'ble Supreme Court in the case of **Gorkha Security Services vs. Government (NCT of Delhi) & Ors.**, reported in **(2014) 9 SCC 105** and in the case of **State Bank of India & Ors. vs. Rajesh Agarwal & Ors.**, reported in **(2023) 6 SCC 1**.

9. We, thus, are of the *prima facie* opinion that the impugned order dated 16<sup>th</sup> March, 2024 has been passed in violation of principles of natural justice and accordingly, we provide that till further orders of the Court, operation of the said order dated 16<sup>th</sup> March, 2024 passed by the Deputy General Manager (Works), Hindustan Aeronautics Limited, Aircraft Overhaul Division, Nashik, debarring the petitioner from participation in further HAL tenders, shall remain stayed.

**10.** The respondents shall, however, file their affidavit-in-reply within four weeks. Two weeks there shall be available to the petitioner to file rejoinder-affidavit, if any.

**11.** Stand over to **28<sup>th</sup> June, 2024.**

**(ARIF S. DOCTOR, J.)**

**(CHIEF JUSTICE)**

PRAVIN  
DASHARATH  
PANDIT

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