



CWP-29542-2024

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-29542-2024Date of decision: 29.10.2024

Rajender Contractor

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Jagdeep Singh Rana, Advocate,
for the petitioner.

ARUN PALLI, J. (Oral)

The petitioner (Rajender Contractor) has prayed for the following substantive relief:-

“Petition under Article 226 of the constitution of India for the issuance of an appropriate writ order or direction in the nature of certiorari/mandamus seeking quashing of the impugned order/letter dated 12.06.2024 (annexure P-5) whereby the agreement of the petition has been terminated illegally and the petitioner has been debarred for two years from participating in the online bids and finally, the earnest money has been forfeited by the respondent, the entire action of the respondent is in violation of the principle of natural justice as no opportunity of hearing has been afforded to the petitioner by the respondent prior to the passing the impugned order dated 12.06.2024 despite the fact that the representation of the petitioner regarding the same is pending consideration of the respondent: and/or

Further for issuance of such other writ, order or direction in the nature of certiorari/mandamus while



quashing the impugned order dated 12.06.2024 as the same has been passed by the incompetent authority and without any jurisdiction, as per the conditions of the DNIT only Commissioner is competent to pass such order, however, to the matter in hand, the impugned order has been passed by the Executive Engineer, who is not competent to pass the impugned order”

Learned counsel for the petitioner submits that the impugned communication/letter dated 12.06.2024 (P-5), vide which, the agreement entered into between the parties has been terminated and the petitioner has also been debarred for a period of two years, besides forfeiture of earnest money, is palpably erroneous. For, neither any show cause notice was issued to the petitioner, nor he was heard. Being aggrieved, a request/representation dated 28.06.2024 (Annexure P-6), was submitted by the petitioner. Accordingly, vide order dated 06.08.2024 (Annexure P-8), passed by the Superintending Engineer, Municipal Corporation, Gurugram, a Committee, consisting of three officials, was constituted to examine the said representation, but the matter has not made any tangible progress to date. Thus, it is urged that owing to the gross illegality committed by the respondents, interest/rights of the petitioner are gravely impaired, as on account of the debarment, he is unable to participate in any other tender.

Served with the advance copy of the petition, Mr. Ankur Mittal, learned Additional Advocate General, Haryana, and Mr. Ankur Mittal, Advocate, along with Ms. Kushaldeep Kaur, and Ms. Saanvi Singla, Advocate, for the respondent-M.C., Gurugram, are present in Court.

At the outset, he submits that non-performance of the petitioner led to the termination of the agreement, debarment for two years and forfeiture of the earnest money. However, he fairly concedes that the order of debarment was passed without issuance of a show cause notice to the petitioner, and in the given the circumstances, the same is indefensible. Therefore, he submits that the order of debarment be deemed to have been recalled/withdrawn. For, the respondent authorities



CWP-29542-2024 -3-

shall pass fresh orders as regards the debarment, after issuing a show cause notice to the petitioner, within a period of four weeks from today. And, with respect to the issue of termination of the agreement and forfeiture of the earnest money deposits, he submits that the Committee constituted for the said purpose, as indicated above, shall take a final call within a period of four weeks from today and shall decide the said issue(s), in accordance with law.

Learned counsel for the petitioner is agreeable to the course suggested by learned State counsel and submits that let the petition be disposed of, in terms of the statement made by him.

In the wake of the position sketched out above and in terms of the statements made by learned counsel for the parties, the writ petition is, accordingly, disposed of

This Court is sanguine that the authorities shall pass appropriate orders, assigning reasons in support thereof, after complying with the principles of natural justice, within the time indicated by learned State counsel.

Needless to assert that this order shall not constitute an expression of opinion on the merits of the case of either party, for, as indicated earlier, the authority shall examine the concerns/grievances of the petitioner, strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

29.10.2024
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No