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

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Date of decision: 28.08.2024

+ **LPA 8/2023 and CM APPLs. 864/2023 & 866/2023**

VA TECH WABAG LIMITED

.....Appellant

Through: Mr Neeraj Kumar, Advocate.

versus

DELHI JAL BOARD

.....Respondent

Through: Ms Richa Kapoor with Mr Kunal Anand
and Mr Parth Kaushik, Advocates.**CORAM:****HON'BLE MR JUSTICE RAJIV SHAKDHER****HON'BLE MR JUSTICE AMIT BANSAL****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J.: (ORAL)**

1. On the previous date i.e., 27.08.2024 we had, after hearing the learned counsel for the parties, briefly recorded the broad contours of the case, which according to us would have a bearing on the adjudication of the instant appeal, having regard to the fact that the arbitration proceedings *inter se* the parties have reached the stage of final arguments. For convenience, the relevant part of the order dated 27.08.2024 is set forth hereafter:

“1. This appeal is directed against the judgment and order dated 22.12.2022 passed by the learned Single Judge.

2. The operative directions issued by the learned Single Judge are contained in paragraphs 29 to 31 of the impugned judgment. The same are extracted hereafter:

“29. Under these circumstances, this Court is not inclined



to either quash the debarment or to reduce the period of debarment. However, it is clarified that the present judgement is broadly based on the correspondence and various documents on record. The Court has not conducted a fact-finding exercise in the present case as the parties are already in arbitration.

30. The present findings shall have no bearing on the merits of the dispute between the parties, which is pending before the ld. Sole Arbitrator.

31. The writ petition is, accordingly, dismissed with no order as to costs. Accordingly, the Blacklisting order shall operate for the period from 15th October 2020 to 15th October 2023.”

3. We are informed by the counsel for the parties that the arbitration proceedings have reached the stage of final arguments.

4. Given this position, according to us, no purpose would be served in continuing the appeal.

5. Since counsel for the parties seek accommodation, list the matter on 28.08.2024.”

2. Mr Neeraj Kumar, learned counsel, who appears on behalf of the appellant, says that since the appellant was blacklisted, it could have a stigmatic effect if it is not effaced completely. However, Mr Kumar does concede that this would depend upon the finding(s) returned by the arbitral tribunal in the pending proceedings.

3. Broadly, the allegation against the appellant is that it has been discharging untreated effluents and sewage directly into the Yamuna river, causing pollution.

3.1 In other words, the plant put in place by the appellant allegedly was not meeting the prescribed parameters i.e., the plant was performing poorly as per the respondent/Delhi Jal Board [DJB].



4. The debarment order dated 15.10.2020, which came to be challenged in the writ petition, in a nutshell, was founded on the poor performance of the effluent plant installed by the appellant.

5. Admittedly, the issue whether or not the subject plant was performing poorly, which contributed to the pollution of Yamuna river, is being adjudicated by the arbitral tribunal.

5.1 Thus, the sustainability of the debarment order is dependent on the finding that the arbitral tribunal would return in that behalf.

6. In these circumstances, the appeal is disposed of with a direction that in case the appellant were to succeed in persuading the arbitral tribunal that the sewage treatment plant installed by it was performing as per the prescribed parameters, the debarment order dated 15.10.2020 would stand effaced.

7. Needless to add, both parties will be entitled to raise their respective contentions before the arbitral tribunal, notwithstanding the disposal of the appeal.

8. Consequently, pending applications shall stand closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

AUGUST 28, 2024 / tr