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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 153/2024 and CM APPL. 11233-34/2024
CURRYMIA FOODS LTD. Appellant
Through: Mr. Ravikesh K. Sinha, Advocate
versus

UNION OF INDIA THROUGH THE SECRETARY MINISTRY OF
DEFENCE & ORS. Respondents

Through: Mr. Anurag Ahluwalia, CGSC with
Mr. Kaushal Jeet Kait, GP and Mr.
Jatin Yadav, Advocate with Col. A.
K.Chhawry, Ministry of Defence for
R-1 to 3

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Date of Decision: 23rd February, 2024

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMOHAN, ACJ: (ORAL)

CM APPL. 11235/2024 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

LPA 153/2024 and CM APPL. 11233-34/2024

1. Present appeal has been filed by the Appellant challenging the order dated 19th February, 2024 passed by a learned Single Judge of this Court in WP(C) 2359/2024 ('impugned order') and to further direct the Respondents to permit the Appellant to participate in the tender process issued by Respondent No. 3 on 24th January, 2024 ('impugned tender').

2. Learned counsel for the Appellant states that the Learned Single Judge vide the impugned order has directed the Respondent no. 2 to consider the appeal of the Appellant, but has refused to permit the appellant to



participate in the tender process.

3. He states that the Learned Single Judge failed to appreciate that the whole purpose of filing the writ petition was to enable the Appellant to participate in the tender. He states that the Learned Single Judge held that the Appellant is entitled to file an appeal against the order dated 7th November, 2023 and to satisfy the Appellate Authority regarding merger/amalgamation. He states that the appeal stands filed.

4. He submits that it is a settled law that after merger, the transferor entity (in the present case the Federation) loses its identity and the transferee entity (the Appellant herein) steps into the shoe of the transferor entity. He further states that the Respondent No. 3 had permitted the Appellant to continue to supply the product in question on the strength of an affidavit, which was filed by the Appellant on 17th January, 2024 showing that the abattoir and the management of the merged entity are the same, and thus other than a technical issue, it is not understood as to why the Appellant could not participate in the existing tender of the Respondent No. 3.

5. Per contra, learned counsel for Respondents, who appears on advance notice, states that though the amalgamation had taken place on 4th October, 2022, yet the Respondent was informed of the said amalgamation for the first time on 19th September, 2023. He points out that on 7th November, 2023, the predecessor entity of the Appellant herein was removed from the approved list of ASC Contractors. He emphasises that the appeal against the said removal has been filed by the Appellant yesterday i.e., 22nd February, 2024.

6. Consequently, according to him, the Appellant is not entitled to any relief from this Court.



7. In rejoinder, learned counsel for the Appellant states that the Appellant had applied for its registration, in its name, vide letter dated 1st November, 2023 and technical as well as hygienic inspection has already been done in pursuant thereto. He states that even after the order dated 7th November, 2023, the Appellant has continued to supply the product in question to the Respondents herein.

8. Keeping in view the fact that the Appellant has already filed an appeal and is continuing to supply the product in question to the Respondent, this Court disposes of the present appeal along with pending applications by directing the Respondents to postpone the date of technical evaluation of bids, which is supposed to open tomorrow by ten days. The Respondents are further directed to decide the appellant's appeal dated 22nd February, 2024 in accordance with law within a week.

9. In the event Appellant's appeal is allowed, the Appellant shall be given liberty to file its bid under the impugned tender within forty eight hours.

10. This Court clarifies that this Court has not commented on the merits of the controversy. The rights and contentions of all the parties are left open.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 23, 2024/rhc