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

\+ W.P.(C) 3661/2023 & CM APPL. 14176/2023 & CM APPL. 16857/2024

PROBIT PLUS PRIVATE LIMITED .....Petitioner

Through: Mr. Preetesh Kapur, Senior Advocate with Mr. Apratim Animesh Thakur, Mr. Lakshya Sachdeva, Ms. Ankita Rawat and Mr. Yash Pratap, Advocates

versus

BHARAT SANCHAR NIGAM LIMITED THROUGH CMD & ORS. .....Respondents

Through: Ms. Sangeeta Sondhi, Mr. Daksh Jain and Mr. Rishabh Munjal, Advocates for R-1 to 3 with Mr. Yogendra Kumar Verma, Dy. Manager

CORAM:
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

O R D E R

% **23.09.2024**

1. The present writ petition is filed under Article 226 of the Constitution for quashing of letter bearing no. BSNLCO-NB/13(14)/1/2020-NB-BSNL-CO dated 25.11.2022 issued under the signature of respondent no. 3 and for issuance of directions to the respondents no. 1 and 3 to lift the pan India ban imposed on the business dealing with the petitioner for 03 years.

2. The petitioner pleaded that the respondent no. 1 issued the impugned letter bearing no. BSNLCO-NB/13(14)/1/2020-NB-BSNL-CO dated 25.11.2022 whereby the petitioner was banned from participating in the business dealing of all units of BSNL all over India.

3. The perusal of impugned letter dated 25.11.2022 reflects that a show-cause-notice bearing no. BSNLCO-NB/13(14)/1/2020-NB-BSNL-CO dated 29.08.2022 was issued which was replied by the petitioner vide letter dated 04.09.2022. The respondent no. 1 has issued the impugned letter dated 25.11.2022 under the signature of respondent no. 3 thereby barring the petitioner from participating in the business dealings of all units of BSNL all over India. The relevant para no. 2 of the impugned letter/order dated 25.11.2022 reads as under:-

> **2. Accordingly, in view of above, I have been directed to convey the following decision of BSNL Management:**
>
> **i. M/s Probit Plus Pvt. Ltd is barred from participating in business dealings of all Units of BSNL all over India w.e.f. date of issue of this barring order by Corporate Office i.e., 25.11.2022 till 24.04.2025 i.e. 3 (three) years from the date of barring of M/s Probit Plus by Bihar Circle w.e.f. 25.04.2022.**
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> **ii. There certain cases where BSNL with M/s Probit Plus Pvt. Ltd either as a Consortium Member 'or' back-to-back Member have already participated in tender(s), for the work which have already been awarded or in the final stage of awarding. In such case(s) the contract/order shall continue where joint bidding is already done 'or' bidding is done with M/s Probit Plus Pvt. Ltd as backend partner.**
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> **iii. BSNL Management can review the decision of barring of M/s Probit Plus Pvt. Ltd earlier also, in case the Hon'ble Court gives a decision in their favour 'or' BSDM revisit their decision for amicable settlement with BSNL.**

4. Mr. Preetesh Kapur, learned Senior Counsel for the petitioner argued that the respondent no. 3 has passed the impugned order dated 25.11.2022 without giving any reasons and without considering the contentions as raised

by the petitioner in the reply/representation dated 04.09.2022. The learned Senior Counsel for the petitioner in support of his arguments, cited judgments titled as **CCS Computers Private Limited V New Delhi Municipal Council and Another**, 2024 SCC OnLine De 1567; **Mekaster Trading Corporation V Union of India and Ors.**, 2003 (71) DRJ 376 and **Transys Consulting Pvt. Ltd. V National Highway Authority of India,** 2024 SCC OnLine Del 5713.

5. It is the duty of any administrative authority before passing any order to give proper reasons and any decision taken by an administrative authority should be a reasoned order. This Court in W.P.(Crl.) 1591/2019 titled as **Nazir Khan V The State of NCT of Delhi** decided on 14.12.2022 observed as under:-

> **8. The administrative authority which is vested with power to determine questions affecting the rights of individuals must exercise power in conformity with the rules of natural Justice requirement of passing reasoned orders by the administrative authorities is one of the important aspects of natural justice. Due to expanding horizon of judicial review, requirement to give reasons has become an indispensable part of judicial review. The Privy Council in Minister of Natural Revenue V Wright's. Vanadian Ropes Ltd., (1947) AC 109 held that a Minister who had failed to give reasons for a special tax assessment had not shown that it was correct and that the taxpayer's appeal must be allowed. In R V Civil Service Appeal Board exp Cunningham, (1991) 4 A AIIER 310 an award of abnormally low compensation to an unfairly dismissed prison officer by the Civil Service Appeal Board, which made it a rule not to give reasons was quashed by the court of Appeal by holding that natural justice demanded the giving of reasons both in deciding whether dismissal was unfair and in assessing compensation. In England, in a series of cases it has been held that statutory tribunals must give satisfactory reasons in order that the losing party may know whether he**

should exercise his right of appeal on a point of law. (See also Nortan Tool Co. Ltd. V Tewson, [1973] WLR 234.

8.1 It is suitably established in India that an adjudicatory authority is required to give reasons for its decision. The Supreme Court in Siemens Engineer and Manufacturing Co. V Union of India, AIR 1976 SC 1785 reiterated the principle with an emphasis that the rule requiring reasons to be given in support of an order is a basic principle of natural justice which must inform the quasi-judicial process. It should be observed in its proper spirit and "mere pretence of compliance with it would not satisfy the requirement of law". It was observed in Maneka Gandhi V Union of India, AIR 1990 SC 1984 that giving of reasons is a healthy check against abuse or misuse of power. The requirement of duty to give reasons was further crystallized in S.N. Mukherjee V Union of India, AIR 1990 SC 1984 and reasons due to which a reasoned decision must be passed were discussed. It was observed that reasoned decision: (i) guarantee consideration by the authority; (ii) introduce clarity in decisions; and (iii) minimize chances of arbitrariness in decision-making thereby ensuring fairness in the process. It was observed as under:

> **In our opinion, therefore, the requirement that reason must be recorded must be recorded should govern the decisions of govern the an administrative authority exercising quasi-judicial functions irrespective of fact whether the decision is subject to appeal, revision or judicial review. It may, however, be added that it is not required that the reasons should be as elaborate as in the decision of a court of law. The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are clean and explicit so as to indicate that the authority has given due consideration to the points in controversy.**

8.1.1 The Supreme Court in Rani Lakshmi Bai Kshetriya Gramin Bank V Jagdish Sharan Varshney& others, (2009)4SCC496 held that the purpose of disclosure of reasons is that people should have confidence in judicial and quasi-judicial authorities and minimize chances of arbitrariness. It was held as under:-

> **The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in the case of S.N.Mukherjee vs. Union of India reported in (1990) 4 SCC 594, is that people must have confidence in the judicial or quasi-judicial authorities. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimizes chances of arbitrariness. Hence, it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation.**

8.1.2 The Supreme Court in The Supreme Court in the case of Namit Sharma V Union of India, (2013) (1) SCC 745 regarding duty to give reasons held as under:-

> **It is not only appropriate but is a solemn duty of every adjudicatory body, including the tribunals, to state the reasons in support of its decisions. Reasoning is the soul of a judgment and embodies one of the three pillars on which the very foundation of natural justice jurisprudence rests. It is informative to the claimant of the basis for rejection of his claim, as well as provides the grounds for challenging the order before the higher authority/constitutional court. The reasons, therefore, enable the authorities, before whom an order is challenged, to test the veracity and correctness of the impugned order. In the present times, since the fine line of distinction between the functioning of the administrative and quasi- judicial bodies is gradually becoming faint, even the administrative bodies are required to pass reasoned orders. In this regard, reference can be made to the judgments of this Court in the cases of Siemens Engineering & Manufacturing Co. of India Ltd. v. Union of India &Anr. [(1976) 2 SCC 981];**

and Assistant Commissioner, Commercial Tax Department Works Contract and Leasing, Kota v. Shukla & Brothers [(2010) 4 SCC 785].

6. In view of the above observations, the impugned letter/order bearing no. BSNLCO-NB/13(14)/1/2020-NB-BSNL-CO dated 25.11.2022 is set aside. The respondent no. 1 is directed to take a fresh decision regarding barring of the petitioner from participating in the business dealings of all units of BSNL after passing a reasoned order and if required, after giving an opportunity of being heard including the personal hearing to the petitioner, preferably, within a period of 08 weeks from today with intimation to the petitioner.

7. The present petition along with pending applications, stands disposed of. However, the petitioner shall be at liberty to initiate appropriate legal proceedings in case of altered circumstances.

8. Copy of this order be given to the counsel for the respondents for necessary compliance.

DR. SUDHIR KUMAR JAIN, J

SEPTEMBER 23, 2024

N/AM