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

+ **W.P.(C) 4044/2024, CM APPL. 16508/2024 & CM APPL. 16509/2024**

**BHILAI ENGINEERING CORPORATION
LIMITED**

..... Petitioner

Through: **Mr. Rishi Anand and Mr. Utkarsh
Mishra, Advocates**

versus

STEEL AUTHORITY OF INDIA LIMITED

..... Respondent

Through: **Mr. Jayant Mehta, Senior Advocate
with Mr. Samaksh Goyal, Advocate**

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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21.03.2024

CM APPL. 16509/2024 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

W.P.(C) 4044/2024, CM APPL. 16508/2024

1. Present writ petition has been filed challenging the email dated 07th March, 2024 issued by the Respondent-Steel Authority of India ('SAIL'), whereby the bid of the Petitioner for the tender issued by Respondent for installation of battery proper along with oven machines, refractories, coal & coke handling facilities, was rejected on the alleged ground that the Petitioner's performance in SAIL projects other than top charged coke oven batteries was unsatisfactory.



2. Learned counsel for the Petitioner states that the bid of the Petitioner has been rejected due to disputes with respect to another project of the Respondent-SAIL at Bokaro Steel Plant. He states that the Petitioner has invoked conciliation process in the said project which is currently *sub judice*. He, therefore, states that rejection of Petitioner's bid on the basis of another project wherein dispute resolution process is underway is arbitrary and unfair. He contends that the rejection of the Petitioner's bid amounts to debarring/blacklisting of the Petitioner without there being any such order against the Petitioner.

3. Learned counsel for the Petitioner points out that *vide* order dated 10th October, 2023 in Writ Petition (C) No. 2503 of 2023 titled *Bhilai Engineering Corporation Limited v. Steel Authority of India Limited*, Jharkhand High Court has granted interim relief in favour of the Petitioner and against the Respondent stating that no risk and cost shall be recovered from the Petitioner with respect to the project at Bokaro Steel Plant. He further points out that the Petitioner has made a representation dated 12th March, 2024.

4. Learnd senior counsel for the Respondent states that the Petitioner's representation dated 12th March, 2024 has been disposed of by e-mail dated 19th March, 2024. He further states that the Respondent was in possession of specific adverse material against the Petitioner and therefore, the Petitioner's bid was rejected. He has also handed over certain documents and judgments.

5. However, this Court is of the view that the impugned e-mail dated 07th March, 2024 has serious civil consequences in the peculiar facts of the case. The Petitioner should have at least been heard before rejecting the representation dated 12th March, 2024. Consequently, the order disposing of



the representation dated 19th March, 2024 and the impugned e-mail dated 07th March, 2024 are set aside.

6. Accordingly, the present writ petition is disposed of with a direction to the Respondent to furnish the adverse material to the Petitioner within a week, who shall file a detailed representation within a week thereafter. The Respondent after giving an opportunity of hearing to the Petitioner shall decide the same by way of a speaking order in accordance with law within two weeks thereafter.

7. This Court clarifies that it has not commented on the merits of the controversy. The rights and contentions of all the parties are left open. To balance the equities between the parties, it is clarified that for a week after the Petitioner's representation is disposed of, the Respondent shall not award the contract in question.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

MARCH 21, 2024/msh