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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8381/2022 & CM APPLs. 25227/2022, 21134/2023**
PRIMATEL FIBCOM LTD.Petitioner

Through: Mr. Rohit Gandhi and Ms. Akshita
Nigam, Advocates.

versus

GAIL (INDIA) LIMITEDRespondent
Through: Mr. Sanjeev Sagar, SC with Ms.
Nazia Parveen, Advocate.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
% **15.10.2024**

1. The present writ petition impugns banning order dated 10th December, 2020 passed by the Deputy General Manager (C&P), and suspension order dated 20th July, 2020 passed by the General Manager (Projects) of the Respondent, Gail (India) Limited. By virtue of the aforementioned banning order, the Petitioner had been put on banning list for a period of three years from the date of issuance of the show cause notice cum suspension order dated 20th July, 2024. Moreover, through the banning order, the Respondent had expressed that they would not engage in any further business with the Petitioner during the aforementioned period.
2. In the above background, at the admission stage, this Court passed order dated 26th May, 2022, giving interim directions:



“W.P.(C) 8381/2022 & CM APPL. 25227/2022 (for Direction)

Notice. Since the respondent is duly represented by learned counsel, let a counter affidavit be filed within a period of weeks from today.

For the purposes of considering the merits of the matter, the Court takes note of the submission of Mr. Kapur, learned Senior Counsel appearing in support of the writ petition, who submits that the equipment, which has been supplied by the petitioner to HFCL, had been duly deployed and was functional. It is contended that the impugned order incorrectly proceeds on the basis of certain disclosures made by BSNL related to a larger contract which had been awarded by the aforementioned Corporation in favour of HFCL. In view of the aforesaid, it was submitted that the conclusion drawn by the respondents that the petitioner did not qualify the tender conditions would not sustain. Matter requires consideration.

Pending final disposal of the present writ petition and without prejudice to the rights and contentions of the petitioner, it is only clarified that the order of 10 December 2020 and more particularly paragraph 9 thereof shall not be construed as disabling the petitioner from participating in other contracts and tenders which may be floated by other entities.

List on 21.11.2022.”

3. With the passage of time, the time period specified in the banning order has since lapsed. In fact, Paragraph No. 11 of the banning order specifically stipulates that the order of banning shall automatically stand revoked on 20th July, 2023.
4. In light of the above circumstances, Mr. Rohit Gandhi, counsel for the Petitioners, states that since the time stipulated in the banning order has already lapsed, the Petitioner Company would be satisfied in case the Court were to clarify that the banning order shall not disable them from participating in the bidding for any future contracts.
5. Ms. Nazia Parveen, Counsel for the Respondent, on instructions, states that the banning order in itself, makes it abundantly clear that the Petitioner shall be free to participate in future bids with the Respondent or



any other Government organisation, after the lapse of the stipulated time.

6. In light of the above, the present petition is disposed of with the observation that the banning order dated 10th December, 2020 shall not be construed as disabling the Petitioner from participating, bidding or award of any contract or tender, either independently or as a consortium, which may be floated by any Government, PSUs, or other entities including GAIL.

7. Mr. Gandhi requests the Court to clarify that the Petitioner shall be free to take recourse to legal options for recovery of the amount, which has been wrongly encashed under the bank guarantee. However, since the issue of bank guarantee was not the subject matter of the banning order, in the opinion of the Court, such an observation is not necessary. Nonetheless, it is clarified that all rights and contentions of the parties, which are not the subject matter of the banning order, are left open.

8. In light of the above, the present petition, along with pending application(s), is disposed of.

SANJEEV NARULA, J

OCTOBER 15, 2024

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