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

+ **W.P.(C) 8691/2024**

SARDA ENERGY AND MINERALS LIMITEDPetitioner

Through: Mr. Prashant Sen, Senior Advocate
with Mr. Sidhartha Sharma, Mr.
Rishav Dutt, Ms. Shalini Sati Prasad,
Mr. Arjun Asthana, Ms. Shalini,
Advocates.

versus

STEEL AUTHORITY OF INDIA LIMITED & ORS.

.....Respondents

Through: Mr. Sharat Kapoor, Mr. Shubh
Kapoor and Ms. Bhavyah Garg
Advocates for R-1.
Ms. Shweta Bharti, Ms. Yashodhara
Burmon Roy, Advocates for R-2
Mr. Nishant Gautam, CGSC with Mr.
Vardhman Kaushik, Mr. Vinay
Kaushik, Mr. Ajay Kanojiya,
Advocates for R-3.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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12.07.2024

CM APPL. 38908/2024 (Seeking Directions)

1. This is yet another application filed by the Petitioner seeking permission to allow them to participate in the tender bearing reference No. GEM/2024/B/5140730 floated by Steel Authority of India Limited on GEM Portal.



2. Considering that the Petitioner has repeatedly filed applications seeking similar reliefs, the Court suggested that it would be more judicious to expedite the hearing of the main petition for final disposal. Both Mr. Sen, representing the Petitioner, and counsel for the Respondent have consented to this approach. Accordingly, the Court has proceeded to hear the arguments on the main petition.

3. Thus, the instant application is disposed of.

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4. The present petition prays for the following reliefs:

- “a) Declare that the offline Letter of Acceptance dated 26th April 2024 along with Back up Purchase Order dated 3rd May 2024 and amended Back up Purchaser Order dated 3rd May 2024 are prohibited, inconsistent and de hors the General Terms and Conditions of the Respondent No. 2 dated 31st January 2024 for the reasons more fully mentioned above;*
- b) Declare that the contract bearing number as GEM/2024/B/4554488 dated 17th May 2024 is null and void;*
- c) A writ of and/or in the nature of Certiorari commanding the Respondents and each one of them, their men, agents, assigns and subordinates to certify and transmit to this Hon’ble Court the records of the case including the Suspension Order dated 14th June 2024 so that conscionable justice may be administered by quashing the same;*
- d) A writ of and/or in the nature of Mandamus commanding the Respondent No. 2 authorities and each one of them their men, agents, assigns and subordinates to rescind, recall, revoke and withdraw the suspension order dated 14th June 2024 issued by the Respondent No. 2;*
- e) An appropriate writ order or direction quashing the suspension order dated. 14.06.2024 issued by Respondent No. 2.*
- f) A writ of and/or in the nature of Mandamus commanding the Respondent No. 2 authorities and each one of them their men, agents, assigns restraining the Respondent No. 1 from taking any coercive steps against the Petitioner in relation to or as outcome of GEM/2024/B/4554488 dated 31st January 2024;*
- g) Any other appropriate writ or writs, order or orders and/or direction or directions;*
- h) Direct the Respondent No. 2 to allow the Petitioner to participate in ongoing and any other tenders published on GeM portal;*



- i) Rule NISI in terms of prayers (a), (b), (c) and (d) as above;*
- j) An interim order restraining the respondent authorities from giving any effect or further effect to the suspension order dated 14th June 2024 issued by the respondent no. 2 and to allow your petitioner company to participate in any tender process floated through the GeM portal, till the disposal of this application;*
- k) Ad-interim order in terms of prayer (g) above;*
- l) Costs;*
- m) Any other relief and/ or reliefs as this Hon'ble Court may deem fit and proper."*

5. Mr. Sen argues that Petitioner's main grievance emanates from the suspension order dated 14th June, 2024,¹ issued by Respondent No. 2 whereby the Petitioner was suspended from accessing and using the GeM portal for a period of 365 days from the date of the said order.

6. On the other hand, Counsel for Respondent No. 2 explains that the impugned order is predicated on non-payment of transaction charges. She further states that now the suspension order has been revoked as the transaction charges have been paid by the Petitioner. Additionally, it is pointed out that the Petitioner has filed a writ petition bearing No. W.P.(C) 8635/2024 which is pending before this Court whereby identical reliefs have been sought by the Petitioner. The same are reproduced below:

- "a) Declare that the offline Letter of Acceptance dated 26th April 2024 along with Back up Purchase Order dated 3rd May 2024 and amended Back up Purchaser Order dated 3rd May 2024 are inconsistent and de hors the General Terms and Conditions of the Respondent No. 2 dated 31st January 2024 for the reasons more fully mentioned above;*
- b) Declare that the contract bearing number as GEM/2024/B/4554488 dated 17th May 2024 is null and void;*
- c) A writ of and/or in the nature of Certiorari commanding the Respondents and each one of them, their men, agents, assigns and subordinates to certify and transmit to this Hon'ble Court the records of the case including the Suspension Order dated 7th June 2024 so that conscionable justice may be administered by quashing the same;*

¹ "impugned order"



- d) A writ of and/or in the nature of Mandamus commanding the Respondent No. 2 authorities and each one of them their men, agents, assigns and subordinates to rescind, recall, revoke withdraw the suspension order dated 7th June 2024 issued by the Respondent No. 2;*
- e) A writ of and/or in the nature of Mandamus commanding the Respondent No.2 authorities and each one of them their men, agents, assigns restraining the Respondent No. 1 from taking any coercive steps against the Petitioner in relation to or as outcome of GEM/2024/B/4554488 dated 31st January 2024;*
- f) Any other appropriate writ or writs, order or orders and/or direction or directions;*
- g) Direct the Respondent No. 2 to allow the Petitioner to participate in any tenders published on GeM portal;*
- h) Rule NISI in terms of prayers (a), (b), (c) and (d) as above;*
- i) An interim order restraining the respondent authorities from giving any effect or further effect to the suspension order dated 7th June 2024 issued by the respondent no. 2 and to allow your petitioner company to participate in any tender process floated through the GeM portal, till the disposal of this application;*
- j) Ad-interim order in terms of prayer (g) above;*
- k) Costs;*
- l) Any other relief and/ or reliefs as this Hon'ble Court may deem fit and proper.”*

7. Upon comparison of the aforementioned prayers, it is evident that prayer No. (a) and (b) of both petitions are identical. Therefore, this Court is of the opinion that since the Petitioner has sought the relief of declaration in relation to Letter of Acceptance in the contract through the earlier writ petition bearing No. W.P.(C) 8635/2024, no purpose would be served in entertaining the present petition. This is particularly relevant since the cause of action concerning the impugned suspension order dated 14th June 2024 no longer persists due to its subsequent revocation. As regards the remaining prayers No. (c) to (e), which are ancillary to the suspension order, also stand redressed. Additionally, Mr. Sen on instructions has chosen not to pursue relief under prayer No. (f) of this petition. The other prayers are general and for interim reliefs.



8. At this juncture, Mr. Sen contends that the transaction charges which were deposited without prejudice to their rights and contentions, pursuant to order dated 24th June, 2024 in the present petition, would be liable to be refunded in case the Petitioner were to succeed in the main reliefs contained in prayers No. (a) and (b) of the instant writ petition. Thus, it is clarified that since the instant petition is being disposed of, the question of refund of transaction charges shall be considered through writ petition No. W.P.(C) 8635/2024.

9. Additionally, Mr. Sen submits that the suspension order dated 07th June, 2024 is still coming in the way of the Petitioner in participating in the tender process and presses that W.P.(C) 8635/2024 be taken up on an early date. Accordingly, it is directed that W.P.(C) 8635/2024 be listed on 18th July, 2024.

10. With the above directions, the present petition, along with pending applications, is disposed of.

11. The next date of hearing i.e., 23rd August, 2024 stands cancelled.

SANJEEV NARULA, J

JULY 12, 2024/ab