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

+ **W.P.(C) 10982/2024 & CM APPL. 45301/2024**

M/S NANGIA AND CO. LLP

.....Petitioner

Through: Mr. Shlok Chandra and Mr. Sanlakp
Sharma, Advocates.

versus

SPORTS AUTHORITY OF INDIA & ORS.

.....Respondents

Through: Mr. Anil Soni, CGSC with Mr.
Devvrat Yadav, G.P. for UOI.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

12.08.2024

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1. The Petitioner participated in the tender/ Request for Proposal¹ dated 15th April, 2024 issued by Respondent No. 1, for selection of project consultants for the Khelo India Events. In terms of the RFP, bidders were required to place their bids through the online Government e-Marketplace² portal of Respondent No. 3.

2. On 8th July, 2024, the Petitioner received an email communication from Respondent No. 1, seeking clarification on a financial discrepancy that had crept into the bid documents as the quoted amount for selection of project consultants on Respondent No. 3's portal was reflecting as INR 1 Crore and whereas the breakdown provided in the financial bid documents was quoted as INR 4.72 Crores. In response, on the same day the Petitioner

¹ "RFP"

² "GeM"



clarified that the quoted amount for the financial bid was INR 4.72 Crores and regretted the inadvertent mistake.

3. This communication was followed by the impugned notice dated 24th July, 2024 issued by Respondent No. 1, debarring the Petitioner from participating in any tenders under the Khelo India Scheme for a period of six months and forfeiting the Earnest Money Deposit³ deposited by the Petitioner with Respondent No. 1.

4. Amongst several grounds urged in the present writ petition, the Petitioner argues that the impugned notice dated 24th July, 2024 is liable to be set aside on a short ground that it was not preceded by any show cause notice. Mr. Shlok Chandra, counsel for the Petitioner argues that in view of the precedents of this Court the impugned debarment/ blacklisting order is not sustainable as (a) it is not preceded by a show cause notice and (b) a show cause notice is must to indicate that the issuing authority intends to debar/ blacklist the entity to whom the notice is issued. In support of this contention, reliance is placed on the judgment of the Supreme Court in **Gorkha Security Services v. Govt. (NCT of Delhi)**,⁴ which reads as under:

“21. The central issue, however, pertains to the requirement of stating the action which is proposed to be taken. The fundamental purpose behind the serving of show-cause notice is to make the noticee understand the precise case set up against him which he has to meet. This would require the statement of imputations detailing out the alleged breaches and defaults he has committed, so that he gets an opportunity to rebut the same. Another requirement, according to us, is the nature of action which is proposed to be taken for such a breach. That should also be stated so that the noticee is able to point out that proposed action is not warranted in the given case, even if the defaults/breaches complained of are not satisfactorily explained. When it comes to blacklisting, this requirement becomes all the more imperative, having regard to the fact that it is harshest possible

³ “EMD”

⁴ (2014) 9 SCC 105



action.

22. *The High Court has simply stated that the purpose of show cause notice is primarily to enable the noticee to meet the grounds on which the action is proposed against him. No doubt, the High Court is justified to this extent. However, it is equally important to mention as to what would be the consequence if the noticee does not satisfactorily meet the grounds on which an action is proposed. **To put it otherwise, we are of the opinion that in order to fulfil the requirements of principles of natural justice, a show-cause notice should meet the following two requirements viz:***

*(i) **The material/ grounds to be stated which according to the department necessitates an action;***

*(ii) **Particular penalty/ action which is proposed to be taken.** It is this second requirement which the High Court has failed to omit.*

We may hasten to add that even if it is not specifically mentioned in the show-cause notice but it can clearly and safely be discerned from the reading thereof, that would be sufficient to meet this requirement.”

[Emphasis added]

5. The absence of show cause notice before the impugned debarment action, is not controverted. Thus, without going into any other ground and in light of the settled law on this issue, Petitioner is entitled to succeed in the present writ petition.

6. At this juncture, Mr. Anil Soni, CGSC for Union of India, states that in case this Court were to quash the impugned notice dated 24th July, 2024, the Respondents must then be afforded an opportunity to issue a fresh show cause notice detailing the proposed penalties.

7. In light of the above submissions, the writ petition is allowed and disposed of with the following directions:

- (i) The impugned debarment notice dated 24th July, 2024 issued by Respondent No. 1 is set aside.
- (ii) The Respondents shall be free to issue a fresh show cause notice to the Petitioner, if required, delineating the proposed action/penalties



sought to be imposed on the Petitioner, to which the Petitioner shall be entitled to respond, in accordance with law.

(iii) Respondents shall also afford an opportunity of personal hearing to the Petitioner before taking a final decision on the fresh show cause notice proposed to be issued by the Respondents. Needless to say, the final decision shall be rendered by the Respondents in accordance with law.

8. All rights and contentions of the parties are kept open. The Court has not made any comments on the merits of the case.

9. With the above directions, the present writ petition is disposed of, along with pending application(s).

SANJEEV NARULA, J

AUGUST 12, 2024

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