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

+ **W.P.(C) 11642/2024 & CM APPL. 48376/2024**

S K ENTERPRISES

.....Petitioner

Through: Mr. Aniket Prasoon, Mr. Vinit Kumar, Mr. Mayuk Roy, Mr. Mukut Chaudhary, Advocates.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Piyush Beriwal, Mr. Vedansh Anand, Ms. Ojasvi, Advocates for R-1.

Ms. Ankita Panikkar, Ms. Sukriti Verma, Mr. Ankit Konwar, Ms. Nishi Kashyap, Mr. Abhishek Praharaj, Advocates for R-2 & R-3.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

23.08.2024

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1. The present writ petition seeks the following reliefs:

“(i) Issue a writ of Mandamus or any other appropriate writ, order or direction declaring that any action taken by the Respondent No. 2 pursuant to the Incident No. 1909769 dated 14.06.2024 including more specifically the action of changing the status of the Incident No. 1909769 dated 14.06.2024 from ‘Responded to SCN’ to ‘Recommended Action’ is non-est and untenable in law;

(ii) Issue a writ of Certiorari or any other appropriate writ, order or direction to quash any action taken by the Respondent No. 2 pursuant to the Incident No. 1909769 dated 14.06.2024 including more specifically the action of changing the status of the Incident No. 1909769 dated 14.06. 2024 from ‘Responded to SCN’ to ‘Recommended Action’ is non-est and untenable in law;



(iii) Pass an order(s) directing the Respondent No. 2 to provide costs of litigation incurred by the Petitioner in pursuing the present Writ Petition, including court fees, legal fees, and other associated expenses; and pass such other/further Order(s) as this Hon'ble Court may deem fit and proper."

2. At the outset, counsel for the Petitioner submits that they were not supplied with the copy of the Show Cause Notice (SCN) regarding Incident No. 1909769 dated 14th June, 2024. He submits that, in such circumstances, there is a violation of principles of natural justice as the Petitioner has not been afforded an adequate opportunity to defend the charges which have been put to them.
3. In response, the counsel for the Respondents No. 2 and 3 controverts this allegation and states that copy of the SCN was supplied to the Petitioner. She submits that the same party, in relation to another incident which is subject matter of challenge in W.P.(C) 11671/2024, has confirmed receipt of the SCN which was sent along with the SCN in the present case. Therefore, there is no reason to explain why the Petitioner had not received the SCN. Nonetheless, she states that she will supply a copy of the SCN to the counsel for Petitioner today itself.
4. Additionally, she states on instructions that, as of now, no final view has been taken. As is evident from the screenshot of the GeM portal¹, the status is only "*Recommended Action*". Thus, she submits that there is no occasion for the Court to intervene at this juncture.
5. In view of the above, without going into the controversy of whether the SCN was served or not, since final decision has not yet been taken on the incident report, the Court is of the opinion that this matter can be resolved

¹ Annexed with the petition and marked as "Annexure P-4"



with the following directions:

5.1. Copy of the SCN shall be supplied to the counsel for the Petitioner today itself.

5.2. Petitioner is afforded five days' time to file their response to the SCN, and the same be emailed at the email address: legal.gem@gem.gov.in or also uploaded online within a period of five days from today.

5.3. On receipt of such response, the Respondent shall consider the same and take appropriate action, if so required, in accordance with the policy and law.

6. It is clarified that the Court has not examined the merits of the case and all rights and contentions of the parties are left open. Should the decision taken be adverse to the Petitioner, they shall be free to take recourse to appropriate remedies, as per the policy and in accordance with law.

7. Accordingly, the present petition is disposed of along with pending application.

SANJEEV NARULA, J

AUGUST 23, 2024/ab