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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 12720/2024 & CM APPLs. 53031-53032/2024**
DURGA SURGICAL CORPORATIONPetitioner

Through: Mr. Gaurav Bahl, Advocate

versus

UNION OF INDIA & ANR.Respondents
Through: Mr. Vaibhav Gaggar, SPC with Mr. Gokul Sharma, GP, Ms. Priyanka Singh, Advocate for UOI
Mr. Rohit Jolly, Ms. Bhumi Goyal, Advocates for GeM
Mr. Divyam Nandrajog, Panel Counsel for GNCTD with Mr. H.C. Birua, Add. Director, DGHS (HQ)

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
11.09.2024

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1. The present petition assails order dated 23rd August, 2024¹ issued by Respondent No. 2, whereby the Petitioner has been blacklisted for a period of 5 years from participating in any future tenders floated by the Respondents, on account of supplying rolled bandage of substandard quality. The Petitioner's primary grievance is that the Impugned Order has been passed without affording an opportunity of hearing to the Petitioner, thereby, violating principles of natural justice and due process of law.
2. Mr. Gaurav Bahal, Counsel for the Petitioner, states that the Petitioner

¹ "Impugned Order"



entered into a contract dated 10th July 2023, for supplying Handloom Cotton Bandage to Respondent No. 2, in furtherance of which the Petitioner had supplied the material on 23rd July, 2023. After a year of having supplied the said material, a show cause notice dated 08th August, 2024 was issued to the Petitioner, highlighting the substandard quality of the supplied material.

3. Petitioner replied to the show cause notice through letter dated 12th August, 2024, which was sent through speed post to the current address, however, the same was not delivered to Respondent No. 2, and was returned to the Petitioner with the comment “no such person found”. Subsequently, the Impugned Order, blacklisting the Petitioner, was issued with the observation that no satisfactory response had been received by the Petitioner. Thereafter, on 02nd September, 2024, Petitioner made another representation, however no action was taken by the Respondents.

4. It is to be noted that the Petitioner has filed a copy of the speed-post cover, which indicates that the reply to the show cause notice was dispatched to the correct address of Respondent No. 2. Therefore, it is abundantly clear that the Petitioner had duly replied to the show cause notice, however, the same could not be considered by Respondent No. 2, on account of default in its delivery.

5. Considering the aforesaid circumstances, it is observed that the Petitioner has not been afforded an adequate opportunity to put forth their stand with respect to the allegations in the show cause notice.

6. In light of the above, the present petition is disposed of with the following directions:

- (a) The Impugned Order dated 23rd August, 2024 is set aside.
- (b) The Petitioner’s reply dated 12th August, 2024 to the show cause notice



as well as their subsequent representation dated 02nd September, 2024 which are part of the present petition, shall now be considered by Respondent No. 2, and a fresh decision be rendered thereon, by way of a speaking order, within a period of six weeks from today.

(c) Respondent No. 2 shall supply a copy of the test report relied upon in the show cause notice to the Petitioner, within a period of one week from today. If the Petitioner wishes to submit an additional response on the basis of the said test report, they are permitted to do so within a week thereafter.

7. All rights and contentions of the parties are left open. It is expressly clarified that the Court has not expressed any opinion on the merits of the contentions raised by the Petitioner, and therefore, Respondent No. 2 is free to take appropriate action after considering the Petitioner's reply, in accordance with law.

8. In light of the aforesaid directions, the present petition is disposed of.

SANJEEV NARULA, J

SEPTEMBER 11, 2024/ab