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

+ W.P.(C) 13817/2024 & CM APPL. 57891/2024, CM APPL.
57892/2024

M/S SPACE 4 BUSINESS SOLUTION PVT LTD THROUGH MS
VANDANA BANSALPetitioner

Through: Mr. Durgesh Gupta, Advocate.

versus

GOVT OF NCT OF DELHI AND ANRRespondents

Through: Mr. Satyakam, ASC for GNCTD.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

01.10.2024

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1. The Petitioner has filed the present petition assailing the order dated 17th September, 2024, issued by Respondent No. 2, whereby the Petitioner's contract with the Respondents has been terminated, and they have been blacklisted for a period of 3 years.

2. The facts leading to the initiation of the present proceedings are as follows:

2.1 Respondent No. 2 had floated a tender through GeM portal dated 6th July, 2024 for Tentage Services lumpsum bases-social gatherings, lighting, Air conditioning, tent rentals, theme based decoration, furniture and equipment rentals, power supply, etc. for a period of one year. The Petitioner Company participated in the said tender, and emerged as the lowest bidder ("L1"). Consequently, they were issued a work order dated 13th July, 2024, followed by a GeM contract dated 15th July, 2024.



Thereafter, a detailed Work Order dated 18th July, 2024 was issued to the Petitioner Company, directing them to provide tentage, electric and allied services during Kanwar Yatra, 2024.

2.2 The Respondents conducted an inspection of the Kanwar Camps through the Tehsildars of New Delhi District, and issued notice dated 30th July, 2024, to the Petitioner, stating that several items that the Petitioner was supposed to install, were not present at the designated sites. The notice delineated both the items and locations where the installations, as outlined in the Work Order, were not completed by the Petitioner. In response to the said notice, the Petitioner sent an e-mail dated 1st August, 2024, attaching photographs as well as videos with geo-tagging, to establish that all the items specified in the Work Order had been installed.

2.3 However, subsequently, show cause notice (“SCN”) dated 16th August, 2024 was issued to the Petitioner, alleging that they had not provided the stipulated items, even after the issuance of notice dated 30th July, 2024. As per the SCN, the Petitioner was directed to furnish their reply within seven days, failing which the action of blacklisting was stated to be contemplated by the Respondents.

2.4 The Petitioner responded to the SCN through communication dated 22nd August, 2024, pointing out to the photographs as well as videos that had been sent to the Respondents through e-mail dated 1st August, 2024. They argued that all the items stipulated in the Work Order had been duly installed by the Petitioners. Additionally, they alleged that the verification by the Respondents was not carried out in a proper manner.

2.5 However, the Respondents through impugned order dated 17th September, 2024, terminated the contract with the Petitioner, and blacklisted



them for a period of three years.

2.6 The Petitioner, through communications dated 18th and 19th September, 2024, requested the Respondents for a review of the impugned blacklisting order, and sought an opportunity for a hearing.

3. In light of the aforesaid factual background, Mr. Durgesh Gupta, counsel for the Petitioner, submits that the impugned order has been passed without taking into account the communication sent by the Petitioner through e-mail dated 1st August, 2024, which forms the foundation of the Petitioner's case. He submits that the aforesaid e-mail adequately explains that there has been complete compliance of the Work Order dated 18th July, 2024, and the same ought to be taken into consideration. He also argues that while the impugned order does make a reference to Petitioner's response dated 22nd August, 2024 to the SCN, it fails to address the contentions raised by the Petitioner in that response. In light of the same, he contends that the impugned blacklisting order is liable to be set aside.

4. On the other hand, Mr. Satyakam, ASC for GNCTD contends that the impugned order places reliance upon the report submitted by the Tehsildars as well as the complaints received from Kanwar Samiti. He argues that in such circumstances, the Respondents did not find the Petitioner's response to the SCN to be satisfactory, and accordingly, proceeded to blacklist them.

5. Mr. Satyakam also apprises the Court of communication dated 26th September, 2024, through which the office of the District Magistrate had called upon the SDM, Revenue Department, Divisional Commissioner office, to provide inspection reports for the Kanwar Camps, in order to decide on the Petitioner's representations. The copy of the said communication is taken on record.



6. The Court has considered the submissions advanced by the Petitioner as well as the Respondents. A perusal of the impugned blacklisting order reveals that the same has been passed without considering the contentions of the Petitioner submitted *vide* e-mail dated 1st August, 2024. Furthermore, the said order does not specify any particular clause of the contract or Work Order dated 18th July, 2024, based on which the decision of blacklisting has been taken against the Petitioner. In the opinion of the Court, the Respondents' action of proceeding with the drastic measure of blacklisting, without considering the submissions of the Petitioner, and without affording them an opportunity of hearing, is in violation of the principles of natural justice and due process of law. In light of the judgement of this Court in ***Benzy Tours and Travels Pvt. Ltd. v. Union of India***,¹ the Court is of the opinion that the impugned backlisting order falls short of the requisite legal threshold that must be met before taking the action of blacklisting. Therefore, the matter must be re-examined by the Respondents before the drastic measure of backlisting is taken against the Petitioner.

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

- (a) The impugned blacklisting order dated 17th September, 2024 is set aside.
- (b) The matter is remanded back to Respondent authorities for re-examining the Petitioner's case, particularly in light of their response dated 1st August, 2024.
- (c) The Respondent shall afford a personal hearing to the Petitioner, for which time and date shall be intimated by the office of District Magistrate,

¹ W.P.(C) 10971/2024, decided 18th September, 2024.



New Delhi District, within a fortnight from today.

(d) Pursuant to the aforesaid hearing, the Respondent Authorities shall pass a speaking order within four weeks from the hearing.

8. All rights and contentions of parties are left open. The observations made by the Court are only for the purpose of deciding the present petition. The Respondents shall independently examine the response of the Petitioner and take an informed decision on the basis thereof.

9. With the aforesaid directions, the present petition is disposed of along with pending applications.

SANJEEV NARULA, J

OCTOBER 1, 2024

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