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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 13845/2024 & CM APPLs. 57977/2024, 57978/2024**
MEDEX INDIA PVT LTDPetitioner

Through: Mr. Arush Bhandari, Advocate.

versus

UNION OF INDIA & ANR.Respondents
Through: Mr. Vikram Jetly, CGSC with Ms. Shreya Jetly, Advocate with Mr. Ravindra Vikram, G.P. for R-1.
Mr. Tarun Johri and Mr. Ankur Gupta, Advocate for R-2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

% **ORDER**
01.10.2024

1. The present writ petition impugns order dated 19th September, 2024 issued by Respondent No. 2, HLL Infra Tech Services Limited, debarring the Petitioner from participating in any tenders floated by the said Respondent.
2. The Petitioner was awarded the multiple tenders floated by Respondent No. 2 through Notification of Award for different tenders. The said NOAs specifies the process for installation and delivery of the tendered equipment. On 20th August, 2024, a show cause notice was rendered to the Petitioner in respect of 3 NOAs stating that the Petitioner has delayed the execution of supply contrary to the terms of the NOA. The show cause



notice then culminated into the impugned order which debars the Petitioner from participating in any future tenders, initially for a period of six months from the date of the order. To this effect, the impugned order reads as follows:

“Hence, keeping in view of the above, you are debarred from participating in any tender initially for 06 (six) months from the date of issue of this letter as per the guidelines issued by the Competent Authority at HITES, if above mentioned issues will not resolved within 1 month period, then, debarment period shall be extended for another 1.5 years as per the rules. The is issued without prejudice to any rights and/or remedies available under the NOA/Agreement with M/s Medex India and/or applicable Laws.”

3. Although the present writ petition raises serval grounds of challenge, at the outset, counsel for Petitioner has highlighted that show cause notice is untenable in law as it did not specify that the Respondents were proposing to blacklist/debar the Petitioner. The notice merely calls upon the Petitioner to submit a response to the notice within 7 days as to why an action for breach of terms of the NOA must not be taken against them. He submits that in absence of such a stipulation in the show cause notice, principles of natural justice have not been adhered to as the Petitioners were deprived of a fair opportunity to present their defence against the specific penalties imposed. Therefore, the impugned order is liable to be set aside on this ground itself. Reliance is placed on the judgment of the Supreme Court in **UMC Technologies (P) Ltd. v. Food Corpn. of India.**¹

4. On the other hand, counsel for Respondents, strongly opposes the present petition and submit that the impugned order is clear and specific as it outlines the defaults on the part of the Petitioner. Hence, the legal requirement for providing a notice was fulfilled and the impugned order is

¹ (2021) 2 SCC 551



completely justified.

5. The Court has noted the facts and contentions of the parties and finds merit in the argument of the Petitioner. Without going into the merits of the case, since the show cause notice, which preceded the impugned order, did not explicitly state that the Respondents were intended to blacklist/debar the Petitioner, in the opinion of the Court, the said notice is defective as it failed to provide a reasonable opportunity to the Petitioner to adequately address the issuance of blacklisting/debarment. A failure to communicate about the consequent act of blacklisting/debarment constitutes a fundamental violation of the principles of natural justice. This view has been previously taken by this Court in ***Benzy Tours and Travels Pvt Ltd v. Union of India***² and by the Supreme Court in ***UMC Technologies (P) Ltd. v. Food Corpn. of India***.

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

- (i) Impugned order dated 19th September, 2024 is set aside.
- (ii) Respondent No. 2 shall issue a fresh show cause notice, if so required, clearly specifying the proposed actions to be taken within a period of two weeks from today.
- (iii) Petitioner shall be permitted to file a response thereto within a period of two weeks from the date of receipt of the said notice.
- (iv) Respondent No. 2 shall consider the Petitioner's response and pass a fresh decision, which shall be a speaking order, within a period of four weeks thereafter.

7. It is clarified that the Court has not examined the merits of the case and Respondent No. 2 shall be free to pass any order in accordance with law



having regard to the facts and circumstances of the case. All rights and contentions of the parties are left open.

8. With the above directions, the present petition, along with pending application(s), if any, is disposed of.

9. *Dasti* under signatures of the Court Master.

SANJEEV NARULA, J

OCTOBER 1, 2024

as

² in W.P.(C) 10971/2024 & other connected matters, decided on 18th September, 2024