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

+ **W.P.(C) 14951/2024, CM APPL. 62717/2024 & CM APPL. 62718/2024**

SHIVA BUILDTECH PVT LTD

.....Petitioner

Through: Mr. Amit Tiwari, Amicus Curiae.
Mr. Ramesh Kumar and Mr. Sarthak
Sharma, Advocates for the petitioner.

versus

NORTHERN RAILWAY

.....Respondent

Through: Mr. Bhagvan Swarup Shukla, CGSC
with Ms. Mahamaya Chatterjee, GP
for UOI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

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04.11.2024

1. Present petition has been filed challenging letter dated 04th September, 2024 issued by the respondent whereby the petitioner was informed that the respondent has forfeited the bid security/EMD of Rs.43,30,500/- submitted by the petitioner *qua* tender dated 09th June, 2023 and requested the petitioner to submit its reply/representation in respect of its blacklisting/banning of business.

2. The petitioner had previously filed a writ petition being W.P. 15671/2023 challenging the rejection of petitioner's bid in tender dated 9th June 2023, forfeiture of earnest money deposited by the petitioner and



banning of business of the petitioner, on the premise that Annexure-H to the Bid submitted by the petitioner was incorrect. The said writ petition was disposed of vide judgment dated 25th July 2024, setting aside the impugned actions of the respondent and directing the respondent to issue a show cause notice within one week, in accordance with the law in respect of the forfeiture of EMD as also for banning of the business of the petitioner.

3. In the present petition, it has been averred that the impugned letter dated 04th September, 2024 is illegal, arbitrary, unreasonable and is not in terms of the judgment dated 25th July, 2024. It is further averred that the impugned letter dated 04th September, 2024 is not a show cause notice but a communication of decision that the bid security has been forfeited and the process of banning of business has been initiated. Even otherwise, it is stated that the letter dated 04th September, 2024 was not issued by the within the time granted by this Court *vide* its judgment dated 25th July, 2024.

4. Learned counsel for the respondent, on instructions, states that the impugned letter dated 04th September, 2024 is not a decision but a show cause notice, in terms of the judgment and order dated 25th July 2024 passed by this Court.

5. Though the impugned letter dated 04th September, 2024 does not read like a show cause notice, yet at the instance of learned counsel for respondent, it is directed to be treated as a show cause notice. Since the petitioner has already filed a response to the letter dated 04th September, 2024, the respondent is directed to decide the same by way of a speaking order within three weeks. In the event a decision is not taken within three weeks, the bid security/EMD amount of Rs.43,30,500/- shall be refunded to the petitioner.



6. However, in the event the show cause notice dated 04th September, 2024 is decided against the petitioner, the petitioner shall be at liberty to file appropriate proceedings in accordance with law.

7. With the aforesaid directions, the present writ petition stands disposed of.

MANMOHAN, CJ

TUSHAR RAO GEDELA, J

NOVEMBER 4, 2024

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