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

+ W.P.(C) 16414/2024 & CM APPL. 69138-69139/2024

M/S MAKCRUNCH FOODS PVT. LTDPetitioner

Through: Mr. Sumant De and Mr. Amit
Singh, Advocates.

versus

UNION OF INDIA & ORS.Respondent

Through: Mr. Vikrant N Goyal and Mr.
Digvijay Singh, CM-I, Legal for
R-1 to 3.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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27.11.2024

1. The present writ petition, under Article 226 of the Constitution, arises out of a tender issued by the respondent-Railway for four parcel scanning machines at Hazrat Nizamuddin Railway Station.

2. The petitioner participated in the tender, issued by the respondent, for this purpose and entered into a contract dated 16.08.2024. The contract start date was mentioned as 02.09.2024, and the contract end date as 01.09.2029. By a letter dated 19.08.2024, the petitioner requested extension of the starting date of the contract until 02.10.2024, and thereafter for a further period of 90 days. The petitioner also raised some disputes with regard to availability of the site for installation of the machines and electricity connection, but the Railways ultimately cancelled the contract on 07.10.2024. There has also been some



correspondence between the parties thereafter.

3. The petitioner has sought to assail the aforesaid termination by way of this writ petition. The reliefs sought in the writ petition are as follows:

“A) Issue a Writ, order, or direction in the nature of Mandamus, or any other appropriate writ as the Hon’ble Court may seem fit, for setting aside the arbitrary/unlawful cancellation of Tender No. MSS-DLI-NZM-PS-55-24-2 for 04 parcel scanning machines at Hazrat Nizamuddin Railway Station and reinstatement of the contract dated 16.08.2024 in adherence to principles of natural justice.

B) Pass any such further order(s) and / or directions in favour of the Petitioner and against the Respondents as this Hon’ble Court may deem fit and proper in the fact and circumstances of the case.”

4. In the course of hearing, Mr. Sumant De, learned counsel for the petitioner, submits that the petitioner has made a representation dated 18.10.2024 for reinstatement of the contract, in response to which the Railways stated, by an e-mail dated 06.11.2024, that the reply to the representation will be sent to them at the earliest. However, without furnishing any reply to the petitioner’s representation, the Railway authorities have issued a fresh tender for the same work. From the website of the railways, the petitioner has also learnt that it had been suspended from participation in tenders issued by the Railways.

5. Mr. De submits that, as far as this writ petition is concerned, the petitioner wishes to restrict the challenge to the order of suspension [Annexure-16 to the writ petition], on the ground that it has been issued without a show cause notice or hearing, and that no reasons have been communicated to the petitioner. As far as the contractual dispute with regard to termination of the contract is concerned, Mr. De states that the petitioner will take contractual remedies, in which it would be in a position to raise all its factual and legal contentions.



6. Mr. Vikrant N Goyal, learned Central Government Standing Counsel, who has taken instructions on request of the Court, submits that the petitioner's representation dated 18.10.2024 has been rejected by a communication dated 25.11.2024, a copy whereof is handed up in Court, and is taken on record. A copy of the said communication has also been handed over to Mr. De.

7. As far as the order of suspension is concerned, Mr. Goyal points out that there is no such prayer in the writ petition. He submits that the suspension was consequent upon termination of the contract, and if the petitioner is advised to take civil remedies in respect of the termination, the suspension order can also be adjudicated in such proceedings.

8. Having regard to the aforesaid submissions, the writ petition, alongwith the pending applications, is disposed of, with liberty to the petitioner to take civil remedies in respect of the termination of the contract, if it is so advised. As far as the suspension of the petitioner from participating in future tenders is concerned, the same may also be assailed in the civil court, or by way of an independent writ petition.

9. In the event the respondent considers it appropriate to do so, this order will not come in the way of the respondent giving the petitioner a show cause notice, with regard to blacklisting, and taking appropriate action thereupon in accordance with law.

PRATEEK JALAN, J

NOVEMBER 27, 2024/MR/AD/