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

+ W.P.(C) 16998/2024 & CM APPLs. 72073/2024, 72074/2024,
72075/2024

NEEV ENERGY LLP AND ANOTHER

.....Petitioners

Through: Mr. Arvind Nayar, Senior Advocate
with Ms. Milanka Chaudhury, Mr.
Ashly Cherian, Ms. Harshita
Aggarwal, Mr. Shivankar Sukul and
Mr. Akshay, Advocates.

versus

ENERGY EFFICIENCY SERVICES LIMITEDRespondent

Through: Mr. Samdarshi Sanjay, Ms. Monika
Sharma, Mr. Ashish Kumar Sharma
and Ms. Apoorva Pal, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

09.12.2024

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1. The present writ petition impugns communication dated 29th October, 2024¹ issued by the Respondent, whereby Petitioner No. 1 has been blacklisting and barred from participating in the tenders issued by Respondent, for a period of two years, effective from 29th October, 2024 to 28th October, 2026.
2. Mr. Arvind Nayar, Senior Counsel for Petitioners, raises several grounds to assail the impugned communication, including lack of a prior show cause notice leading up to the blacklisting/banning action.
3. On the other hand, Mr. Samdarshi Sanjay, counsel for Respondent



points out that the impugned order was preceded by a show cause notice dated 11th May, 2023. However, acknowledging the objections raised by the Petitioners, he, on instructions, states that the Respondent, without prejudice to its rights and contentions, has decided to withdraw the impugned communication dated 29th October, 2024. He further seeks liberty to initiate fresh proceedings for blacklisting, if so required, after issuing a new show cause notice to the Petitioners.

4. In addition, counsel for the Respondent raises a preliminary objection regarding the maintainability of the present writ petition. He argues that the dispute between the parties is already the subject matter of ongoing arbitration proceedings, which encompass the issues forming the basis of the impugned blacklisting. In response, Mr. Nayar asserts that the writ petition is maintainable as it challenges the Respondent's exercise of executive powers in terms of blacklisting the Petitioner, which is distinct from the contractual disputes being adjudicated in arbitration.

5. Having considered the submissions of both sides and noting the Respondent's decision to withdraw the impugned communication, this Court refrains from rendering any opinion on the maintainability of the writ petition. The decision to withdraw the blacklisting order renders the Petitioners' grievance, for the time being, infructuous.

6. Thus, in light of the statement made by the Respondent, the present writ petition is disposed of with following directions:

- (i) The Respondent shall within four days from today issue a formal communication withdrawing the impugned letter dated 29th October, 2024.
- (ii) The Respondent shall also update its website within 48 hours,

¹ "Impugned communication"



ensuring that the withdrawal is duly reflected in its records and visible to all stakeholders.

(iii) The Respondent is at liberty to initiate fresh proceedings for blacklisting/banning the Petitioner, if so advised, in strict compliance with the principles of natural justice and the applicable legal framework. Any such action shall be preceded by a fresh show cause notice clearly specifying the grounds and the proposed action.

7. All rights and contentions of the parties are left open.

8. With the above directions, the present writ petition is disposed of, along with pending applications.

SANJEEV NARULA, J

DECEMBER 9, 2024

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