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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4150/2015 & CM APPL 7531/2015**
M/S. KTC-KSC-RS(J.V.)Petitioner
Through: **Ms. Pooja Dua, Adv.**

versus
UNION OF INDIA & ORS.Respondents
Through: **Mr. Subhash Tanwar, CGSC with**
Mr. Sandeep Mishra and Mr. Ashish
Choudhary, Advs. for UOI

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER
% **22.08.2024**

1. The petitioner in the instant writ petition has prayed for quashing of the notice dated 07.11.2014 and 11.11.2024 including the subsequent action thereto i.e. encashment of FDR No. TDR/MTL/E 4959566 dated 04.07.2014 for Rs. 6,76,540/-.
2. Besides various grounds raised by the petitioner, learned counsel for the petitioner, at this stage, confines her submission to the extent of non-adherence of principles of natural justice. She has taken the Court to the relevant Clauses of the tender document and submits that the respondents, if at all, are entitled for taking impugned action, the same should have been taken only if it is found that the tenderer has submitted forged/fake documents in support of his offer. She, therefore, emphasized that the earnest money in the instant case, which has been forfeited can only be done after ascertaining and recording a finding that the petitioner has resorted to the submission of the forged/fake documents in support of his offer.



3. Learned counsel appearing for the petitioner further points out that the principles of natural justice is inbuilt in the various clauses of the tender document. She also submits that the respondents in their counter affidavit have taken a stand of service of the notice dated 07.11.2014 which according to her has not been served on the correct address. She has shown from the pleading and the document that the notice dated 07.11.2014 has been served on some different address.

4. Learned counsel who appears on behalf of the respondents opposes the submissions made by learned counsel appearing on behalf of the petitioner. He submits that the instant petition is not maintainable and if at all the petitioner has any grievance, the petitioner either has to resort the remedy under the arbitration clause of the contract or to file a Civil Suit. He further submits that in the instant case since the tender has already been discharged and at this stage, the petitioner cannot be granted any substantial relief.

5. The Court has considered the submissions made by learned counsel appearing on behalf of the parties and have perused the record.

6. No doubt, at this stage, the petitioner cannot be allowed to carry out the remaining work as the tender stood discharged on 07.11.2014. However, if the Court finds that the respondents have acted arbitrarily or illegally, the decision of forfeiture of the earnest money can be interfered with and the petitioner can also be accordingly compensated.

7. The Court has to consider as to whether the respondents have taken the impugned decision, in accordance with law. The respondents are unable to point out as to whether they have validly served the Show Cause Notice upon the petitioner's address before taking the impugned decision. It is not



the case of the respondents that no notice is required before taking the impugned decision. The respondents asserted in their reply that the notice was served. However, the Court finds that there is no service proof of the same.

8. Since the notice itself has not been shown to have been validly served on the petitioner's address, therefore, the Court finds that the principles of natural justice stood violated.

9. In view of the aforesaid, instead of relegating the petitioner to any other alternate remedy, the Court finds that the respondents required to consider the case of the petitioner afresh after affording opportunity of hearing.

10. Accordingly, the instant petition stands disposed of with the following directions:-

(i) The concerned respondent shall issue a fresh Show Cause Notice to the petitioner within a period of four weeks from the date of receipt of the copy of the order passed today.

(ii) The petitioner shall be at liberty to file the reply within four weeks thereafter.

(iii) Depending upon the reply to be submitted by the petitioner, the respondents shall pass speaking order, in accordance with law. The petitioner, thereafter, shall be at liberty to challenge the same, in accordance with law.

PURUSHAINdra KUMAR KAURAV, J

AUGUST 22, 2024

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