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

+ **W.P.(C) 16999/2024 & CM APPL. 72077/2024**

RAJBALA

.....Petitioner

Through: Mr. S.C. Singhal and Ms. Ramika
Munjal, Advocates

versus

UNION OF INDIA & ANR

.....Respondents

Through: Mr. Vikram Jetly, CGSC with Ms.
Shreya Jetly and Mr. Aakash Pathak,
GP.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

03.04.2025

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1. Heard the learned counsel for the parties.
2. Under challenge in this petition filed under Article 226 of the Constitution of India is the decision of the respondents whereby the allotment of regimental shop no.5 (General Store) made in favour of the petitioner on 20.08.2024 has been cancelled and the party concerned has taken a decision to re-tender the shop.
3. The impugned decision is embodied in the letter dated 16.11.2024 addressed to the petitioner by the party concerned. It has been argued by learned counsel appearing for the petitioner that in an auction proceeding, the subject shop was allotted to the petitioner by means of an order dated



20.08.2024, however, without affording any opportunity of hearing, the impugned decision as embodied in the letter dated 16.11.2024 has been taken, as result of which the allotment made in favour of the petitioner stands cancelled and further the shop in question shall be re-tendered.

4. Primary submission of the learned counsel for the petitioner is that before taking the decision as contained in letter dated 16.11.2024, the petitioner was not afforded any opportunity of hearing. As such the decision is in flagrant violation of principles of natural justice hence the same is not sustainable.

5. *Per contra*, learned counsel representing the respondent has submitted that as a matter of fact in the earlier auction proceedings, cartel was found which is evident from an inquiry conducted by the respondents wherein it has been found that the demand draft tendered by the petitioner as also by one Ritu Rathi was not only drawn from the same bank but preparation of the said demand drafts was also paid from the same account.

6. The inference of formation of a cartel has thus been drawn on the basis of said facts as are said to have been revealed to the respondents after the allotment made in favour of the petitioner on 20.08.2024.

7. However, what we find is that as to on what basis, the inference of formation of a cartel was drawn, has never been put to the petitioner. In our considered opinion before arriving at the conclusion that in the given circumstances, the allotment of the shop made in favour of the petitioner, needs to be cancelled and the shop needs to be re-tendered, the petitioner ought to have been issued a show cause notice requiring her to furnish her explanation in respect of alleged formation of cartel and also the transaction made by her for the purpose of preparation of the demand draft. Having not



done so, it is apparent that the respondents have acted in violation of principles of natural justice.

8. Accordingly, we dispose of the instant writ petition with the direction to the respondents to give the petitioner a post decisional hearing. The respondents are directed thus to give a show cause notice to the petitioner giving the basis on which they intend to cancel the allotment made in her favour. She shall be given at least two weeks' time to furnish her reply and on receipt of the said reply, a fresh decision shall be taken by the respondents in accordance with law.

9. We categorically provide that once the show cause notice under this order is served upon the petitioner, she shall furnish her reply within two weeks and no further time shall be available to her for the said purpose. In case no such reply is furnished, it would be competent for the respondents to proceed and pass fresh order in absence of the reply. We further provide that the decision for cancellation of allotment of the shop to the petitioner as also for re-tendering the shop in question, as embodied in the letter dated 16.11.2024, shall abide by the fresh decision which may be taken by the respondents under this order.

10. We also provide that in case the petitioner submits her reply within 15 days of receipt of show cause notice, she shall be given an opportunity of personal hearing as well within a week, thereafter. If for some reason, the petitioner chooses not to avail the opportunity of personal hearing, a complete decision which may be warranted under law shall be taken by the respondents.

11. Our attention has been drawn to an interim order passed by this Court on 09.12.2024 in these proceedings. Accordingly, we provide that till a fresh



decision under this order is taken, parties shall maintain a *status quo*.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

APRIL 3, 2025
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