**(2021) 02 DEL CK 0056**

**In the Delhi High Court**

**Case No :** Civil Writ Petition No. 1484 Of 2021, Civil Miscellaneous Application No. 4278 Of 2021, 4279 Of 2021

Manu Electricals Pvt. Ltd. APPELLANT

Vs

Indian Oil Corporation Ltd RESPONDENT

**Date of Decision :** 05-02-2021

**Acts Referred:**

**Citation :** (2021) 02 DEL CK 0056

**Hon'ble Judges :** Prathiba M. Singh, J

**Bench :** Single Bench

**Advocate :** Sanjay Agarwal, Santwana Agarwal, Mala Narayan, Neha Dawar, Shashwat Goel

**Final Decision :** Disposed Of

## Judgement

Prathiba M. Singh, J

1. This hearing has been done through hybrid mode (physical and virtual hearing)

2. The present petition challenges the letter dated 25th October, 2019 issued by the Chief General Manager (Engg.), Indian Oil Corporation Ltd.

(hereinafter â??IOCâ??) vide which, the Petitionerâ??s tender bearing no. RCC/NR/DSO/ENG/PT-159/2016-17 for supply, installation, testing and

commissioning of energy efficient LED lighting at Ambala terminal under Delhi and Haryana State office, has been terminated and the Petitioner has

been put on a holiday list for a period of one year with effect from 24th October, 2019.

3. The Petitioner was awarded the said tender vide acceptance letter dated 27th March 2017 and was given the work order vide letter dated 19th

April 2017. The Petitioner had in turn engaged one M/s Virex Energy Pvt. Ltd. â?" Respondent No.2 for effecting the supplies and for taking care of the manufacturing defects of the products.

4. The case of the Petitioner is that due to breaches by Respondent No.2, the LED lights installed turned out to be defective and were not replaced.

This is stated to not have taken place not due to any fault of the Petitioner however, the same resulted in the termination of the contract in its favour,

as well as the Petitioner being put on the holiday list.

5. Mr. Agarwal, ld. counsel for the Petitioner, submits that immense damage has been caused to the Petitioner due to the conduct of Respondent

No.2. He further submits that the blacklisting/debarment order issued by Respondent No.1 would continue to be a blemish on the Petitioner while

applying for future contracts. He also submits that Respondent No.2 was an approved vendor of IOC and hence it was engaged by the Petitioner.

6. Ms. Narayan, ld. counsel on behalf of Respondent No.1, submits that blacklisting was only for a period of one year and the said period has already

expired. She fairly submits that in the future, if the Petitioner bids for any tender, the fact that it was earlier debarred or blacklisted by IOC, would not

come in the way of it being awarded the said tender, if it fulfils all terms and conditions of the tender and is found deserving of being awarded the

same.

7. Heard ld. counsels for the parties. This Court has perused the impugned order dated 25th October, 2019. The operative portion of the said order

reads as under:

â??Thus you contract under Tender bearing no. RCC/NR/DSO/ENG/ PT-159/2016-17 is terminated forthwith in line with the aforementioned clauses.

Apart from termination, you are put on holiday list for a period of 1 year w.e.f. 24/10/2019. You are hereby also informed that the security deposited

by you in the form of Bank guarantee has been forfeited as the same has already been invoked. Further the rectification work shall be got done by the

Corporation at your risk and cost and recovery on account of supervision charges shall be made for taking up the work through alternate agency from

the alternate agency.â??

8. A perusal of the same shows that the Petitioner was put on a holiday list which in effect means debarment, for a period of one year starting from

24th October, 2019, which has already expired now. Insofar as the termination of the tender contract is concerned, the Petitionerâ??s case is that the payments are not being released under the said tender.

9. This court is of the opinion that this Court cannot direct recovery of amounts without a factual determination. The question as to the breaches by

Petitioner or his agent, if any, and any amounts which are due, ought to be agitated before a Civil Court. The further submission that Respondent No.2

was an approved vendor by IOC and hence it was engaged by the Petitioner cannot also be gone into in the present petition.

10. In view of the fact that the blacklisting period is already over and the stand of the IOC is that the Petitioner would not be disabled in any manner

from participating in future tenders, it is observed that the Petitioner would be entitled to be fairly considered for any such future tenders by IOC.

11. No further orders are called for in this matter. It is made clear that the remedies of the partiesâ??, with respect to seeking recovery or other

damages or losses against each other, are left open to be agitated by availing their respective remedies in accordance with law.

12. This petition and all pending applications are disposed of in the above terms.

 