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

+ LPA 497/2019

MERITTRAC SERVICES PVT LTD

..... Appellant

Through: Mr. Nikhil Nayyar, Sr. Advocate with
Ms. Jaspreet Saran, Mr. Chirag Kher,
Advs.

versus

OIL AND NATURAL GAS CORPORATION LIMITED & ORS

..... Respondent

Through: Mr. K.P.S Kohli, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

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16.07.2020

**CM APPL. 15297/2020, CM APPL. 15298/2020 & CM APPL.
15299/2020**

Exemptions allowed, subject to all just exceptions.

The Court fees be paid within a week.

The applications stand disposed of.

CM APPL. 15296/2020

1. The appellant has moved this application to seek stay of the operation and effect of the notice dated 02.07.2020 bearing reference No. DDN/ HRD/ HRP-TS/ 2020- II issued by the respondent ONGC against the appellant commencing enquiry against the appellant in terms of Clause 18.6 (i) of the GCC.

2. The appellant preferred the writ petition, which has been dismissed by the Learned Single Judge and against which the present Letters Patent Appeal is pending, wherein the appellant had assailed the termination of its contract with the respondent ONGC and the issuance of the notice under Clause 18.6 (i) of the GCC. The said Clause permits the employer i.e. ONGC to conduct an enquiry against the contractor to determine whether the contractor was at fault. The said determination has the effect of debarring the contractor from grant of any further contract for a period of two years.

3. During the pendency of the writ petition before the learned Single Judge, there was a stay operating in respect of the said enquiry. Eventually, after the dismissal of the writ petition by the impugned judgment, the ONGC has sought to undertake the enquiry in terms of Clause 18.6 (i) by issuing the notice dated 02.07.2020.

4. We are not inclined to stay the said enquiry, considering the fact that the same is being undertaken in terms of the contractual clause. It is for the respondents to determine the aspect whether the appellant was at fault, so as to invite blacklisting for a period of two years.

5. Learned counsel for the appellant submits that the time for responding to the notice is expiring tomorrow. Counsel seeks more time to respond to the notice. This is a fair request and, therefore, we allow the appellant to file its response to the said notice within the next one week.

6. The further submission of learned counsel for the appellant is that in the prevailing circumstances, the appellant would not be in a position to avail of the personal hearing that the respondents seek to grant to the appellant at Dehradun. Learned counsel submits that the hearing may be

granted through virtual mode over the internet.

7. Learned counsel for the respondents is agreeable to the appellant being heard virtually over the internet. He states that the respondents would provide a link to the appellant after fixing a date for the virtual hearing so that the same could be conducted.

8. It goes without saying that while taking a decision on the notice dated 02.07.2020, the competent authority shall arrive at its own conclusion after hearing the appellant, and shall not be influenced by the observations made by the learned Single Judge in the impugned order.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

JULY 16, 2020

N.Khanna