

Court No. - 40

Case :- WRIT - C No. - 41328 of 2023

Petitioner :- Rakesh Dubey

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Amit Kumar Mishra

Counsel for Respondent :- CSC, Anadi Krishna Narayana

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Surendra Singh-I, J.

1. Heard Sri Amit Kumar Mishra, learned counsel for the petitioner, learned standing counsel for the State-respondents and Sri Anadi Krishna Narayana, learned counsel for the respondent No.2 - U.P. State Road Transport Corporation.

2. This writ petition is preferred for following principal relief:

"(a) Issue a writ, order or direction in the nature of certiorari quashing the impugned order No.7694 dated 07.10.2023 passed by respondent No.2.

(b) Issue a writ, order or direction in the nature of mandamus directing the respondent No.3, i.e. District Magistrate, Agra to issue the character certificate in the name of petitioner within time bound manner."

3. The petitioner has assailed the validity of the order dated 07.10.2023 passed by respondent No.2 by which it had seized the security amount of Rs.7372/- of the petitioner, cancelled the tender of canteen of a bus station Khandauli and also blacklisted him. Learned counsel for the petitioner states that in most arbitrary manner, the said order has been passed even though at the time of participating in the tender process, he has applied for character certificate and in case there was delay, the same was on the part of the State-respondents and for the same, the petitioner cannot be blamed. Moreover, the order impugned has been passed contrary to the principles of natural justice as before passing the same, opportunity of hearing was not furnished to the petitioner. In support of his submission, he has placed reliance upon the Division Bench judgment **dated 17.07.2023 passed in Writ-C No.- 12088 of 2023** (Sanjay Singh vs. State of U.P. and 4 others).

4. Per contra, Sri Anadi Krishna Narayana, learned counsel for the respondent No.2 - U.P. State Road Transport Corporation has raised an objection that tender process was floated way back on 22.12.2022 and admittedly being the highest bidder, the claim of the petitioner was accepted by the UPSRTC and initial amount has also been deposited by the petitioner on 21.12.2022 but as per Letter No.9898 dated 23.12.2023, petitioner was directed to produce character certificate issued by District Magistrate within seven days. Admittedly, the said condition has not been

complied and the petitioner has also not deposited the balance amount. He states that as third party right has been created, therefore, at this belated stage no interference with the order impugned is called for.

5. Heard rival submissions and perused the record. So far as the order dated 7.10.20223, we do not find any infirmity in it. However, so far as blacklisting part is concerned, as the same was passed without according opportunity of hearing, the same is not sustainable. Accordingly, the order impugned dated 07.10.2023 is quashed only so far as petitioner's blacklisting is concerned and the matter is relegated to the respondent No.2 -UPSRTC to proceed in the matter in accordance with law.

6. With the aforesaid observations, the writ petition is **disposed of**.

Order Date :- 7.12.2023

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