



Serial No. 03
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No. 15 of 2024 with
MC(WA) No. 9 of 2024

Date of order: 11.11.2025

M/s A.S. Transportation

...Appellant

- versus -

1. The Union of India,
Represented by the Secretary to the
Department of Food & Public Distribution,
Ministry of Consumer Affairs, Food & Public
Distribution, Government of India, Krishi
Bhawan, New Delhi, PIN-110001
2. Food Corporation of India,
Represented by the Chairman &
Managing Director, Barakhamba
Lane, New Delhi, PIN-110001
3. General Manager,
Food Corporation of India, Regional Office,
NEF Region, Mawroh, Mawlai, Shillong
Meghalaya, PIN-793008
4. Deputy General Manager (Regional),
Food Corporation of India, Regional Office, NEF Region,
Mawroh, Mawlai, Shillong
Meghalaya, PIN-793008
5. Deputy General Manager (Finance),
Food Corporation of India, Regional Office,
NEF Region, Mawroh, Mawlai, Shillong,
Meghalaya, PIN-793008
6. Assistant General Manager,
Food Corporation of India, Regional Office, NEF Region, Mawroh,
Mawlai, Shillong, Meghalaya, PIN-793008

...Respondents

**Coram:**

Hon'ble Mr. Justice Soumen Sen, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellant : Mr M. Nath, Sr Adv. with
 Mr D.J. Kapil, Adv.
 Mr M. Nath, Adv.

For the Respondents : Mr B.K. Singh, Adv. with
 Ms S. Sharma, Adv. [for R 2-6]

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| i) | Whether approved for reporting in Law journals etc.: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

We have heard the learned counsel for the parties.

2. The learned counsel for the appellant has submitted that the learned single judge has not decided the issue raised with regard to the risk and cost clause in the tender although in paragraph 15 of the writ petition, the imposition of risk and cost upon the writ petitioner was questioned as unconscionable. The learned counsel has also referred to the interim order in which the debarment of two years was allowed after taking into consideration the risk and cost clause in the terms and conditions of the tender. The learned counsel for the respondents however,



has submitted that this point was never urged at the time of final hearing of the writ petition and accordingly, it should not be allowed to be raised in this proceeding.

3. It appears from the impugned order that the risk and cost imposed upon the writ petitioner was not separately argued before the learned single judge and the final argument was restricted to blacklisting only. The learned single judge has proceeded on the basis that the blacklisting of the writ petitioner was done in violation of the principles of natural justice and in this regard the learned single judge has relied upon the following three decisions as to be found from paragraphs 2, 6 and 8 of the impugned order:-

“(i) South Eastern Coalfields Limited & Ors. vs. S. Kumar’s Associates AKM (JV) reported in (2021) 9 SCC 166.

(ii) UMC Technologies Private Limited vs. Food Corporation of India & Anr. reported in (2021) 2 SCC 551.

(iii) Judgment and order dated 2nd December, 2015 passed in Ms Chaitanya Projects vs. State of Meghalaya, WP(C) No. 309 of 2014.”

4. If the debarment has a nexus with the risk and cost as one of the factors for debarment, the final order that was passed may be assailable in a fresh proceeding. If, however the debarment is independent of the risk and cost clause in the tender process having regard to the fact that this



point was not argued at the time of hearing of the writ petition, it can be concluded that the writ petitioner has abandoned the said issue. The order passed has given rise to a fresh cause of action. However, we are not going into the said issue having regard to the fact that the final order has been passed and the writ petitioner shall be at liberty to challenge the said order in accordance with law.

5. The writ appeal and the connected application [MC(WA) No. 9 of 2024] are accordingly disposed of. However, there shall be no order as to costs.

(W. Diengdoh)
Judge

(Soumen Sen)
Chief Justice