

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11888 of 2015

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M/s Sreeven Infocom Limited, a Company registered under the Indian Companies Act, having its registered office at Suite 605-A, HUDA Maitrivanam S.R. Nagar, Hyderabad-500038 and having its local office at Sreeven Infocom Ltd. 1st Floor, 270 Patliputra, Patna, Bihar through its Managing Director, Kalidindi Satyanarayana Raju.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Transport, Government of Bihar, Patna.
2. The Transport Commissioner, Department of Transport, Government of Bihar, Patna.
3. The Deputy Commissioner Transport, Department of Transport, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. N.K. Agarwal, Sr. Adv.
Mr. Saket Tiwary, Advocate.
Mr. Sanjeev Kumar Dubey, Adv.
For the Respondent/s : Mr. Avinash Kumar, SC-30

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT

Date: 30-10-2015

Heard learned counsel for the petitioner and learned counsel for the Respondents.

2. The present writ petition has been filed for quashing the order contained in Memo No. 1343 dated 23.03.2015 issued by the Principal Secretary, Department of Transport, Government of Bihar (Respondent No. 1) by which the petitioner-company has been blacklisted from the date of issuance of the order and against the direction that the security money given by the petitioner has been ordered to be forfeited.



3. Learned counsel for the petitioner submits that the impugned order of blacklisting and the order of forfeiture of its security money have been passed without issuance of show cause notice and without grant of any opportunity of being heard in the matter. It is, therefore, submitted that such order cannot be sustained in law as it is in violation of fundamental principle of natural justice.

4. Reliance is place on the decision of the Hon'ble Apex Court rendered in Erusian Equipment & Chemicals Ltd;, vs. State of West Bengal [(1975) 1 SCC 70], in paragraph 20 whereof it has been observed as follows:-

"Blacklisting has the effect of preventing a person from the privilege and advantage of entering into lawful relationship with the Government for purposes of gains. The fact that a disability is created by the order of blacklisting indicates that the relevant authority is to have an objective satisfaction. Fundamentals of fair play require that the person concerned should be given an opportunity to represent his case before he is put on the black list."

5. In a more recent decision rendered in Gorkha Security Services vs. Government (NCT of Delhi) and others [(2014) 9 SCC 105] the Hon'ble Supreme Court while reiterating the principle in Erusian Equipment case (*supra*) has clarified even the contents required to be incorporated in the show cause notice in the following terms:-



"21. The central issue, however, pertains to the requirement of stating the action which is proposed to be taken. The fundamental purpose behind the serving of show-cause notice is to make the noticee understand the precise case set up against him which he has to meet. This would require the statement of imputations detailing out the alleged breaches and defaults he has committed, so that he gets an opportunity to rebut the same. Another requirement, according to us, is the nature of action which is proposed to be taken for such a breach. That should also be stated so that the notice is able to point out that proposed action is not warranted in the given case, even if the defaults/breaches complained of are not satisfactorily explained. When it comes to blacklisting, this requirement becomes all the more imperative, having regard to the fact that it is harshest possible action."

6. Learned counsel for the respondent appears and has been heard.

7. In that view of the matter and without entering into the merits of the case, the impugned order as contained in Memo No. 1343 dated 23.03.2015 issued by the Principal Secretary, Department of Transport, Government of Bihar (Respondent No. 1) as contained in Annexure-1 of the writ petition is hereby set aside with liberty to the respondent to issue show cause to the petitioner, if so advised, before resorting to any adverse action against the petitioner.

8. The writ petition accordingly stands allowed.

(Vikash Jain, J)

Md. Ibrarul/-

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