

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6886 of 2015

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M/s Laborate Pharmaceuticals India Limited a Company registered under the Indian Companies Act, 1956 having its registered office at E-11, Industrial Area, Panipat, Haryana through its Manager Marketing and authorized signatory Rajesh Ranjan son of Arbind Kumar Singh resident of Mansarovar Garden, Satyam Block, Sinha Library Road, P.S. Kotwarli, Frazer Road, Patna-1.

.... Petitioner

Versus

1. The State of Bihar through the Commissioner-cum-Principal Secretary, Department of Health, Vikash Bhawan, New Secretariat, Government of Bihar, Patna;
2. The Bihar Medical Services and Infrastructure Corporation Limited, 5th Floor, Biscomaun Bhawan, Gandhi Maidan, Patna through its Managing Director;
3. The Managing Director, Bihar Medical Services and Infrastructure Corporation Limited, 5th Floor, Biscomaun Bhawan, Gandhi Maidan, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. Jitendra Kumar Singh, Sr. Advocate
Mr. Mrigank Mauli, Advocate
For the State : Mr. Kumar Manglam, AC to GP 15
For Respondents : Mr. Tuhin Shankar,
Mr. Siddharth Shankar Pandey, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-12-2015

The present writ petition has been filed for quashing of order contained in letter No. BMSIC/40025/27-2014/29 dated 06.04.2015 whereby the petitioner-Company has been blacklisted for a period of two years.

2. At the very outset, before entering into the details of merits of the matter, Mr. Jitendra Kumar Singh, learned senior counsel for the petitioner, submits that the impugned order dated 06.04.2015 is unsustainable in law having been passed in gross violation of the fundamental principles of natural justice. It is pointed



out that while a show cause notice dated 05.01.2015 was issued in which two charges came to be levelled against the petitioner on the basis of an enquiry report dated 20.08.2014 submitted by a Committee headed by Dr. K.K. Singh, in response to which the petitioner filed its show cause reply dated 20.01.2015 refuting the allegations. The impugned order dated 06.04.2015 finally came to be passed in which, however, a second enquiry report (said to be dated 10.10.2014) submitted by a Committee headed by Sri Anand Kishore was also referred to. It is submitted that the reliance placed upon such second enquiry report in the impugned order without first having been served a copy thereof on the petitioner vitiates the impugned order of blacklisting. It is submitted that even though the second enquiry report predates the show cause notice, the same was not made available and no opportunity in that regard was granted to the petitioner and as such the impugned order in that respect travels beyond the show cause notice.

3. Learned counsel for the respondents appears and has been heard.

4. Having regard to the nature of the aforesaid objection raised on behalf of the petitioner, this Court does not consider it necessary to go into the detailed merits of the matter.

5. It is well settled that any material sought to be relied

upon in order to draw adverse inference must first be supplied and any failure in this regard results in violation of the principles of natural justice vitiating the final order passed. It is evident from the materials on record that even though the second enquiry report has been relied upon in the impugned order of blacklisting, the same has not been made available to the petitioner in terms of the show cause notice issued to it. As such, the petitioner has been denied a reasonable opportunity of being heard in that regard.

6. In the above view of the matter, this Court finds considerable merit in the aforesaid submissions of the petitioner. Accordingly, the impugned order dated 06.04.2015 is quashed with liberty to the respondents to pass orders afresh in accordance with law after supplying a copy of the second enquiry report of the Committee headed by Sri Anand Kishore and after grant of reasonable opportunity to the petitioner. It is made clear that the writ petition is being disposed of without considering the merits of the matter.

7. The writ petition is disposed of in the manner indicated above.

(Vikash Jain, J)

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