

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.7060 OF 2014

- 1) Saurav Trading Company
Registrar No.s/9583.
Through its Proprietor,
Uddhav s/o Bhagwatrao Kadam,
Age: 49 Yrs., occu.Business,
R/o Tambari Vibhag Osmanabad.
- 2) Vithal Bazar,
Registrar No.14236/2011,
Through its Proprietor,
Nikhil s/o Uddhav Kadam,
Age: 23 Yrs., occu. Business.
R/o Tambari Vibhag Osmanabad. - PETITIONERS

VERSUS

- 1) Union of India
Through its
Department of Education,
Ministry of Human Resource
Development, Govt. of India,
New Delhi.
- 2) The Commissioner,
Navodaya Vidyalaya Samithi,
B-15, Institutional Area,
Sector 62, Noida-201307,
Dist. Gautam Buddh Nagar,
Utterpradesh.
- 3) The Deputy Commissioner,
Navodaya Vidyalaya Samithi,
Regional Office, Pune.
- 4) The chairman and District
Collector, VMC, Jawahar
Navodaya Vidyalaya, Tuljapur,
District Osmanabad.
- 5) The Principal,
Jawahar Navodaya Vidyalaya,
Tuljapur, Dist.Osmanabad.

- 6) Vijaykumar S.Ghos,
Age: 45 Yrs., occu.Vice Principal,
And Incharge Principal,
Jawahar Navodaya Vidyalaya,
Tuljapur, Dist.Osmanabad. - RESPONDENTS

Mr.Ramesh V.Naiknavare Advocate for Petitioners;
Mr.SB Deshpande, ASG for Respondents.

**CORAM : R.M.BORDE &
P.R.BORA,JJ.**

DATE : 30th JULY,2015.

ORAL JUDGMENT (PER:-R.M.BORDE,J.)

1) Heard. Rule, with the consent of parties, the petition is taken up for final disposal at admission stage.

2) The petitioners are the registered firms under Bombay Shops & Establishments Act. The petitioners/firms were engaged in supply of grocery items and dry ration to Jawahar Navodaya Vidyalaya, Tuljapur during the academic year 2014-2015.

3) It is the case of the petitioners that Respondent No.5 - Principal of Jawahar Navodaya Vidyalaya, demanded 5% amount for sanction of the bill of supply of dry ration. As such, a complaint was lodged in that regard by petitioner No.2 to the Central Bureau of Investigation (CBI). The CBI, Pune arranged a trap and apprehended the Principal of the

Vidyalaya and arrested him while accepting bribe/illegal gratification of Rs.17,000/-.

. The petitioners contend that Respondent No.5 – Principal of the Vidyalaya, out of grudge against the petitioners, issued a communication dated 17.7.2014, informing both the petitioners that as per the decision of the Purchase Advisory Committee, the petitioners are black-listed from the tender process.

4) The petitioners contend that the action of black-listing the petitioners taken by the Purchase Advisory Committee is a counter-blast to the complaint lodged by petitioner No.2 with CBI against the Principal of the Vidyalaya. It is further contended that such order of black-listing the petitioner, is bad in law for the reason that the respondents have failed to observe the principles of natural justice and the period of black-listing the petitioners firms is not specifically mentioned, as there cannot be blacklisting *sine die*.

5) An affidavit in reply has been presented on behalf of the respondents and it is contended in the reply that the supply of food-grains and dry ration made by the petitioners to the School was not satisfactory and the school authorities have received

several complaints in respect of the quality and standard of the items supplied by the petitioners. It is further contended that the petitioners were also issued warning time and again in this regard, however, there was no improvement in quality of food-grains and dry ration supplied to the school. Reliance is placed on the notice dated 19.12.2013 issued by the Principal of the School to the petitioners, whereby the petitioner has been informed that since the supply of food-grains/dry ration/grocery items, made by the petitioners was not in consonance with the directives issued by the Vidyalaya and it was warned that in the event of failure to comply with the directions, an action of forfeiture of deposit and cancellation of the tender, would be taken against the petitioners and the petitioners were also put on warning of action of blacklisting.

6) On perusal of the notice/communication dated 19.12.2013, we are convinced that there was failure on the part of the respondents to issue show cause notice calling upon the petitioners to answer as to why the action as proposed shall not be taken against them. The notice dated 19.12.2013, seems to be in

the nature of warning to the petitioners and is issued calling upon petitioner to show cause in respect of the proposed action. It is thus clear that the respondents have failed to observe the principles of nature justice before issuing the order impugned in the petition.

7) Reliance is also placed on a judgment in the matter of M/s Southern Painters Vs. Fertilizers and Chemicals Travancore Limited – AIR 1994 SC 1277, wherein the Supreme Court has mandated that the person, against whom an action is proposed, is entitled to hearing before taking adverse action of black-listing. It is observed that fundamentals of fair play require that the person concerned should be given an opportunity to represent his case before he is put on the blacklist.

8) In the instant petition, the impugned order dated 17/18-7-2014 suffers from defect of non-observance of principles of natural justice, and as such, the same deserves to be quashed and set aside and it is accordingly quashed and set aside. It would be open for the respondents to take appropriate steps, as permissible in law, in observance of the principles of natural justice.

9) Rule is accordingly made absolute in the aforesaid terms. There shall be no order as to costs.

sd/-
(P.R.BORA)
JUDGE

sd/-
(R.M.BORDE)
JUDGE

bdv/