

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

WA.No. 117 of 2011 () IN WP(C).728/2011

AGAINST THE JUDGMENT IN WP(C) 728/2011 DATED 10-01-2011

APPELLANT(S)/PETITIONER :-

MEDIPOL PHARMACEUTICAL INDIA PVT. LTD.
128/5, SWISS HOUSE, VISWAS NAGAR
DELHI- 110 032 REPRESENTED BY ITS DIRECTOR
YOGESH GUPTA.

BY ADV. SRI.S.RAMESH BABU

RESPONDENT(S)/RESPONDENTS :-

1. STATE OF KERALA REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF HEALTH
GOVERNMENT SECRETARIAT, TRIVANDRUM.
2. THE KERALA MEDICAL SERVICES
CORPORATION LIMITED REPRESENTED BY ITS
MANAGING DIRECTOR, BEHIND W & C HOSPITAL, THYCAUD
THIRUVANANTHAPURAM-14.

R2 BY ADV. SRI.M.AJAY, SC, KERALA MEDICAL SERV.CORPN
R1 BY SR.GOVERNMENT PLEADER SRI.P.I.DAVIS

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 18-09-
2015, ALONG WITH WA. 328/2011, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

jvt

**ASHOK BHUSHAN, C.J &
K. VINOD CHANDRAN, J.**

W.A. Nos.117 & 328 of 2011

Dated this the 18th day of September 2015

J U D G M E N T

Vinod Chandran, J.

These two writ appeals are filed by the supplier and the awarder respectively. The learned Single Judge, on hearing the writ petition, against the blacklisting of the supplier, found that the blacklisting order was passed without hearing the supplier and directed a fresh consideration of the issue, after affording an opportunity for hearing.

2. It is submitted by the learned counsel for the awarder that the issue was hence, considered afresh in pursuance to the directions issued by this Court and again the supplier herein was blacklisted by Ext.R2(c), which order stands unchallenged. Under such circumstances, W.A.No.117 of 2011 is infructuous and the same is dismissed as infructuous.

3. As to W.A.No.328 of 2011, the appellant/awarder specifically challenges the declaration by the learned Single Judge that even when there is no opportunity for hearing sought; the awarder/appellant ought to have granted a hearing since it is a

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necessary requirement of the principles of natural justice. The appellant specifically points to Ext.P3, the reply, in which there was no opportunity sought for hearing. A reading of Ext.P3 would also indicate that the supplier had, for all purposes, admitted the default and had not sought for any hearing.

4. Under such circumstances, we do not think that the declaration is called for. In the context of no hearing asked for, there was no purpose for hearing the supplier before an order was passed.

With the above observation, W.A.No.328 of 2011 also would stand disposed of.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
K. VINOD CHANDRAN
JUDGE