

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CIVIL WRIT PETITION NO.15067 of 2015

DATE OF DECISION: OCTOBER 14, 2015

Gurdeep Singh son of Khushal SinghPetitioner

Versus

State of Punjab and othersRespondents

**CORAM:- HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA**

Present: Mr.KK Goel, Advocate for the petitioner.

Mr.Rajinder Goyal, Additional Advocate General,
Punjab.

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TEJINDER SINGH DHINDSA, J.

The instant writ petition is directed against the order dated 18.6.2015, Annexure P3, passed by the District Manager, Pungrain, Ferozepur, respondent No.5 in terms of which the labour cartage contract awarded to the petitioner has been cancelled and he stands blacklisted.

2. Undisputed facts are that the petitioner having participated in an E-tendering process was awarded the tender for labour work at Shiva PEG Godown and T.S.Sodhi PEG Godown situated at Centre Guruharsahai, District Ferozepur for the years 2015-16. Separate agreements for the work in relation to the two Godowns were executed between the petitioner and respondent

No.5. As per contract awarded, the petitioner was responsible for arranging labour for handling and transportation of food grains as per requirement of the concerned District Manager. The petitioner was obligated to make necessary arrangement for loading and unloading of railway wagons within the time period fixed by the railway authorities and was liable for any demurrage that would be imposed by the railway authorities for late supply of transportation means or labour for loading/unloading of the railway wagons or movement of food grains from the railway premises.

3. The impugned order is sought to be justified on the strength of two show cause notices dated 29.4.2015 and 25.5.2015 that are stated to have been served upon the petitioner. These two show cause notices were with regard to the petitioner having allegedly not provided adequate arrangement of labour for loading on two separate dates i.e. on 26.4.2015 and 16.5.2015. The petitioner had in response taken a stand that workers of a rival labour Union had interfered in the process of loading and had stopped him from undertaking the work in question. It has been stated by the petitioner that in such confrontation, he had even sustained injuries and was admitted in Civil Hospital, Guruharsahai. Even FIR No.80 dated 17.5.2015 was registered against three persons at Police Station Guruharsahai under Sections 323, 324, 34 of the Indian Penal Code on the statement made by the petitioner.

4. However, from the pleadings on record, we find that the impugned action has not been taken in pursuance to the

alleged deficiency on the part of the petitioner as regards loading of foodgrains on 26.4.2015 and 16.5.2015 in relation to which the show cause notices had been issued. The impugned order, in itself, would reveal that the labour contract has been cancelled and the petitioner has been blacklisted on account of his having allegedly not arranged adequate labour on 14.6.2015 for loading of the railway wagons at M/s T.S.Sodhi Godown. The impugned order recites that on account of insufficient labour, only 46000 gattas (bags) were loaded on 14.6.2015 and the balance were loaded on the following day i.e. on 15.6.2015.

5. Concededly, no show cause notice for hearing had been afforded to the petitioner with regard to the loading of foodgrains on 14.6.2015/15.6.2015. As regards the previous show cause notices dated 29.4.2015 and 25.5.2015 are concerned, the petitioner had responded to the same, but the contemplated action of blacklisting had not been taken. The action, as such, is not in consonance with the well settled proposition that blacklisting has to be proceeded by a show cause notice. In a recent decision of the Hon'ble Supreme Court in *Gorkha Security Service v. Government of N.C.T.Delhi and others, (2014)9 SCC 105*, it had been held that in order to fulfil the requirement of principles of natural justice in the case of blacklisting not only is a show cause notice mandatory, but it had to fulfil two requirements viz. i) the material/grounds to be stated which according to the Department necessitates such an action and ii) particular penalty/action which is proposed to be taken.

6. Even otherwise, the impugned order is one of

permanent blacklisting. An action of blacklisting for all times to come cannot be sustained in view of the judgment of the Apex Court in *M/s Kulja Industries Limited v. Chief Gen.Manager W.T.Proj.BSNL & others, AIR 2014 (SC) 9*.

7. In view of the above, writ petition is allowed. Order dated 18.6.2015, Annexure P3, is set aside. Liberty, however, is granted to the respondent-authorities to pass an order afresh after following due process of law.

8. Petition allowed.

(S. J. VAZIFDAR)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

OCTOBER 14, 2015
SRM

Note: Whether referred to Reporter? (Yes/No)