

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No.1990 of 2016**

M/s. T.A.-S.S.A. (JV), Tiwari Bhawan, Vivekanand Nagar, Kosabadi, Korba, through its partner/authorized signatory namely Ajay Kumar Tiwari, S/o. Late K.P. Tiwari, aged about 47 years, R/o. 120 Ramayan, Kosabadi, Police Station Rampur, District Korba (CG)

---- Petitioner

Versus

1. South Eastern Coalfields Limited, through: its Chairman-cum-Managing Director, S.E.C.L. Bhawan, Seepat Road, Bilaspur, Police Station and Post Bilaspur, Civil and Revenue District Bilaspur (CG)
2. General Manager, South Eastern Coalfields Limited Civil/Welfare, SECL, Bilaspur, District Bilaspur (CG)
3. Head of the Department (Civil/Welfare), South Eastern Coalfields Limited, Bilaspur, District Bilaspur (CG)
4. Senior Manager (C)/CSR, Gevra Area, South Eastern Coalfields Limited, Korba, District Korba (CG)
5. Deputy General Manager (C), Gevra Area, Korba, District Korba (CG)

---- Respondents

For Petitioner	:	Mr. Manoj Paranjape, Advocate
For Respondents	:	Mr.H.B.Agrawal, Senior Advocate with Mr.Vaibhav Shukla, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

Per Deepak Gupta, Chief Justice

29/08/2016

1. On 8.8.2016 when the writ petition was entertained, we had passed the following order:-

“The short question involved is that whether in the notices issued, there was any indication either

explicit or implicit that if the reply of the Petitioner-Company is not satisfactory then the Company would be black-listed.

The case of the petitioner is that there was not even a remote suggestion to the aforesaid effect in the notice and relying upon the judgment of the Apex Court in (2014) 9 SCC 105 (Gorkha Security Services v. Government (NCT of Delhi) and others) it is submitted that the action taken is improper.

Since a short question is involved, two weeks' time is granted to the Learned Counsel for the Respondents to point out from the notice as to whether such action was either explicitly or implicitly contemplated.”

2. Reply has been filed by the SECL and in the reply the reliance has been placed on notice dated 17.4.2015 (Annexure R/5). Relevant portion of the notice reads as follows:-

With reference to above subject, you are hereby advised to execute the agreement within 15 days, failing which management may taken action to rescind the work, as per tender/C.E.M. condition.

3. This Court is clearly of the view that the notice does not impliedly or explicitly contemplate that action shall be taken for black-listing of the petitioner. It only states if the petitioner does not perform the work, action will be taken to rescind the contract. In the light of clause 6.1 of the agreement, the SECL may be empowered to black-list the person, but before black-listing is done, notice has to be issued.
4. Since, no notice has been issued, we quash the order dated

12.2.2016 (Annexure P/1) passed by the respondent No.3.

5. Since, we have quashed the impugned order only on the ground that no notice has been issued, liberty is reserved to the SECL to take action after issuing notice and following the rules of natural justice.
6. The writ petition is allowed to the extent indicated hereinabove.

Sd/-

(Deepak Gupta)
Chief Justice

Sd/-

(Sanjay K.Agrawal)
Judge

Bablu