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HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2420 of 2016**

- Cadila Health Care Limited, ZYDUS Tower, Satellite Cross Road, Ahmedabad, P.S. Satellite, District Ahmedabad, Gujarat- 380015 (Through: Authorised Signatory Hiren Trivedi)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through: Secretary, Department Of Health And Family Welfare, Secretariat, Mahanadi Bhavan, Naya Raipur, District Raipur, (Chhattisgarh)
2. Chhattisgarh Medical Services Corporation Limited, Through: Managing Director, III Floor, Govind Sarang Commercial Complex, New Rajendra Nagar, Raipur, District Raipur, (Chhattisgarh) 492006

---- Respondents

For Petitioner	Shri Prashant Jaiswal, Senior Advocate with Shri Bhavesh Acharya and Shri Ashutosh Shukla, Advocate
For Respondent-State	Shri A. S. Kachhawaha, Addl. AG
For Respondent No.2	Shri C. J. K. Rao, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****20/10/2016**

1. The petitioner is aggrieved by the order (Annexure-P-1), whereby the respondent No.2, Chhattisgarh Medical Services Corporation Limited (henceforth 'the Chhattisgarh Corporation')

has blacklisted the petitioner for a period of 3 years and thus it has been denied participation in any tender floated by the Chhattisgarh Corporation for the said period.

2. Reference to some dates would be necessary to appreciate the chronology of events, which led to the passing of the impugned order.
3. The Chhattisgarh Corporation published e-tender on its website on 19.05.2014. The petitioner submitted its tender on 27.06.2014 i.e. within the extended validity of the e-tender. It is alleged that in the said tender the petitioner did not disclose the fact of it being blacklisted by the Kerala Medical Services Corporation (henceforth 'the Kerala Corporation'), therefore, a show cause notice was issued to the petitioner as to why it should not be blacklisted. The petitioner failed to respond to the notice, therefore, the impugned order has been passed.
4. As a matter of fact, the Kerala Corporation blacklisted the petitioner on 04.12.2015 vide Annexure-P-4. Thus, the order was not in existence on the date when the petitioner submitted the tender in response to the e-tender issued by the Chhattisgarh Corporation. Moreover, the order of blacklisting by the Kerala Corporation has already been quashed by the Kerala High Court by order dated 19.05.2016 in WPC No.17632/2016 (Annexure-P-6). The impugned order has been passed on 12.04.2016 i.e. prior to the date on which the Kerala High Court quashed the order of blacklisting.

5. Since on the date of submission of tender by the petitioner, the Kerala Corporation had not issued any order blacklisting the petitioner and even otherwise the said order of blacklisting, which is made basis for the present impugned order, has already been set aside by the Kerala High Court, the impugned order (Annexure-P-1) deserves to be and is hereby set aside.
6. It is settled law that if very edifice of the order on which the impugned action was built has fallen, the subsequent action has to fall flat.
7. For the foregoing, the writ petition stands allowed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala