

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (LODGING) NO.1013 OF 2016

M/s. Kamat Brothers
Through its proprietor
Versus

...Petitioner

Balmer Lawrie and Co. Ltd.

...Respondent

...

Mr. Atul G. Damle, Senior Counsel with Mr. K.R. Lanjekar for the
Petitioner.

Mr. Shyam Kapadia with Mr. Deepti B. Mistry for Respondent No.1.

Mr. U.S. Upadhyay, AGP for Respondent No.2.

CORAM : A.S. OKA &
SMT. ANUJA PRABHUDESSAI, JJ.

DATED : 13th DECEMBER, 2016.

ORAL JUDGMENT (PER : A.S. OKA, J.):

Rule was issued on 24th August, 2016. However, prayer for interim relief was rejected by the Division Bench of this Court. The Petitioner challenged the said order by preferring a Special Leave Petition. By order dated 26th October, 2016, a direction was issued by the Apex Court to decide the petition expeditiously and preferably within a period of two months. Therefore, on the earlier date, the parties were put to notice that the petition would be taken up for final

disposal.

2. The challenge in this petition under the Article 226 of the Constitution of India is to the action of black listing the Petitioner as evidenced from the communication dated 15th February, 2016 issued by the first Respondent to the Petitioner. First Respondent is a Government of India Enterprise. The said communication is issued on the basis of an application made by the Petitioner under Right to Information Act, 2005. There is an affidavit in reply of first Respondent filed by Shri Ravishankar Ramachandra. An internal communication dated 3rd August, 2015 annexed to the reply records that there was a recommendation made to black list the Petitioner from participation in tenders of first Respondent and all its subsidiaries for a period of three years.

3. From the said affidavit in reply, we found that there was no show cause notice issued to the Petitioner calling upon the Petitioner to show cause as to why the Petitioner should be blacklisted. No opportunity of being heard was granted to the Petitioner.

4. The learned Senior Counsel appearing for the Petitioner has relied upon the decision of Gorkha Security Services Vs. Government of

NCT of Delhi¹ which holds that drastic order of black listing cannot be made without complying with the principles of natural justice.

5. Faced with this difficulty, as no show cause notice was issued to the Petitioner at any stage, the learned Counsel appearing for the first Respondent, on instructions states that “the internal communication” by which the Petitioner was black listed will be withdrawn and a process will be initiated to black list the Petitioner in accordance with law. We accept the said statement.

6. In view of the aforesaid statement, we record that as of today, there is no lawful order of black listing the Petitioner made by the first Respondent. Therefore, it is not necessary to entertain this petition under Article 226 of the Constitution of India. Accordingly, the petition is disposed of. Rule is disposed of accordingly.

7. We make it clear that this order will not preclude the first Respondent from initiating action of blacklisting the Petitioner. Needless to add that the first Respondent shall follow the process of law before taking any such action.

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)

¹ AIR 2014 SCC 41