

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.26785 of 2015 (O&M)
Date of Decision : 04.04.2016.**

Pioneer Publicity Corporation Pvt. Limited

.....Petitioner

Versus

Chandigarh Housing Board and others

..... Respondents

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI**

Present : Mr. Aditya Grover and Ms. Neha Sharma, Advocates
for the petitioner.

Mr. Sanjeev Sharma, Sr. Advocate with
Ms. Bhawna Joshi, Advocate for the respondents.

S.J.VAZIFDAR, ACTING CHIEF JUSTICE (ORAL):

The petitioner has challenged the order dated 30.11.2015, passed by the Chief Executive Officer-respondent No.2 blacklisting the petitioner for a period of five years and forfeiting the earnest money deposited by the petitioner.

2. Prior thereto, the petitioner had been blacklisted by a letter dated 14.03.2014, issued by respondent No.3. The petitioner challenged this order/letter in an appeal before the appellate authority and by an order dated 19 September, 2014 the appellate authority set aside the order/letter and remanded the matter to the Executive Engineer-IV(PH) on the ground that the petitioner was not given an adequate opportunity to state its case

regarding blacklisting or forfeiture of the earnest money. The appellate authority directed the Executive Engineer-VI(PH) to afford the petitioner an adequate opportunity before taking a decision on the blacklisting.

3. A fresh show cause notice was issued by respondent No.3, which is also challenged in this writ petition. The Executive Engineer-VI(PH) passed an order dated 27.07.2015. The petitioner challenged this order by filing CWP No.17511 of 2015, which was disposed of by an order and judgment of a Division Bench of this Court dated 07.10.2015, to which one of us (S.J.Vazifdar, Acting Chief Justice) was a member. The order was set aside. The respondents, however, were granted liberty to pass a fresh order after affording the petitioner an opportunity of being heard.

4. Pursuant thereto, the order impugned in the present writ petition dated 30.11.2015, was passed by the respondents. Unfortunately, this order does not deal with any of the issues referred to in the said order and judgment dated 7.10.2015 in CWP No.17511 of 2015. Despite the fact that the petitioner has been litigating for some time, none of the authorities have dealt with the matter on merits even after the order of this Court. If the petitioner is guilty of the breaches it is alleged to have committed, upon remand, the matter ought to have been considered on merits.

5. Be that as it may, the petitioner has an alternative remedy of filing an appeal. We intend insisting upon the petitioner availing this remedy before the appellate authority who at least hopefully will consider the matter on merits.

6. The petitioner, however, ought to be permitted in the meantime

on account of fact that he had litigated for three years.

7. In the circumstances, the petition is disposed of by relegating the petitioner to the alternative remedy of appeal. However, till the decision of the appellate authority and if the order is adverse to the petitioner for a period of four weeks thereafter the show cause notice and the order blacklisting the petitioner shall remain stayed. It is clarified, however, that the stay in respect of the show cause notice shall not prevent the appeal from being heard on merits. In the event of the order of the appellate authority being adverse to the petitioner the stay order granted by this order shall remain stayed for a period of four weeks after service upon the respondents.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

04.04.2016

Manoj Bhutani

(ARUN PALLI)
JUDGE