

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2957 OF 2015

Mr. Rambachan Rajju Yadav

...Petitioner

Versus

National Institute Of Industrial
Engineering

...Respondent

Ms. Sumi Mahajan, a/w Ms. Priyanka Pawar, for the Petitioner.

Mr. Arif Bookwala, Senior Counsel, a/w Mr. Avadesh M.
Nathani, for the Respondent.

CORAM : B.R. GAVAI AND
RIYAZ I. CHAGLA, JJ.

DATE : 20 June 2017

ORDER :

1. Rule is made returnable forthwith.
2. Heard by consent.

3. The Petitioner has approached this Court being aggrieved by order dated 24 August 2015 by which the Petitioner has been blacklisted from submitting any tender/quotation for any future work in the Respondent Institute.

4. Heard Ms. Sumi Mahajan and Shri. Arif Bookwala, the Senior Counsel for the Respondent.

5. Ms. Mahajan, the learned Counsel for the Petitioner submits that the order of blacklisting the Petitioner is neither proceeded by the principles of natural justice nor are there any reason in support of the impugned order. She therefore, submits that the same is liable to be the short ground of violation of principle of natural justice.

6. Shri. Arif Bookwala, the Senior Counsel for the Respondent, on the contrary, submits that the Petitioner in collusion with the officers of the Respondent Institute has

indulged in gross malpractices. It is submitted that notices which have been placed on record would reveal that the Petitioner has taken huge amount from the Institute without doing work proportionate to the amount claimed.

7. By now, it is a settled principle of law that an order of blacklisting is one which invites adverse civil consequences. It is equally settled that an every order inviting adverse civil consequences is required to be preceded by the principles of natural justice.

8. Admittedly, prior to the impugned order being passed, neither the show cause was issued to the Petitioner nor the Petitioner was given opportunity of hearing.

9. We are therefore, of the considered view that the impugned order is liable to be quashed and set aside on the short ground of violation of principle of natural justice.

10. Shri. Bookwala, the learned Counsel for the
Sharayu.

Respondent sought to place reliance on the material in support of a submission that the impugned action is supportable in view of the material which is placed on record. However, we refuse to go into the said material. The law on the said issue is also well settled in the *Mohinder Singh Gill & Anr. Vs. The Chief Election Commissioner, New Delhi & Ors.*¹, wherein it has held that the original orders cannot be improved by the subsequent Affidavits.

11. In that view of the matter, the material which is not found in the original order, cannot be permitted to be read in the subsequent Affidavits. In that view of the matter, we find that since the impugned order does not state any reason in support of the action taken against the Petitioner, the same is also liable to be set aside on the ground of the same being non speaking one.

12. In that view of the matter, the Writ Petition deserves to be allowed.

¹ 1978 SCR (3) 272

13. Rule is therefore, made absolute by quashing and setting aside an order dated 24 August 2015. However, we make it clear that since we are allowing the Petition on the ground of non observance of principles of natural justice, if the authorities deem it necessary, they are always at liberty to proceed further, however, after following the procedures as established by law.

[RIYAZ I. CHAGLA, J.]

[B.R. GAVAI, J.]