

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2017

C O R A M

THE HON'BLE Mr.JUSTICE K. RAVICHANDRABAABU

W.P.No.8804 of 2017
and
WMP Nos.9654 and 9655 of 2017

M/s.Sri Chakra Computer Offset Printing,
Rep. by its Proprietor K.Gnanavel,
No.40/80, Double Street,
Kolinjivadi,
Dharapuram 638 673,
Tirupur District. Petitioner

Vs

- 1.The District Collector/Chairman/DRDA,
Kanchipuram,
Kanchipuram District.
- 2.The Project Director,
District Rural and Development Authority,
Kanchipuram District.
- 3.The Assistant Executive Engineer (RD),
District Rural and Development Authority,
Kanchipuram District. Respondents

Prayer: Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the entire records of the first respondent passed in the impugned order, dated on 22.02.2016 Na.Ka.No.661/2015 A12 (petitioner's name has been entered in the Black List) and quash the same.

For petitioner ... Mr.S.Silambannan
Senior Counsel
for M/s.M.Senthamizh Selvan
For Respondents ... Mr.K.Venkataramani for R1
Additional Advocate General
Assisted by Mr.P.Senthilvel

Mr.S.N.Parthasarathi
for R2 and R3 Government Advocate

ORDER

The petitioner is aggrieved against the order of the first respondent dated 22.02.2016, wherein and whereby, the contract awarded to the petitioner for supplying 815 tricycles was cancelled, apart from blacklisting the petitioner permanently.

2. Mr.S.Silambannan, learned Senior Counsel appearing for the petitioner submitted that though the impugned order imposed two punishment on the petitioner viz., cancellation of the contract and blacklisting, the petitioner is confining his relief in this writ petition only in respect of blacklisting of the petitioner alone. The learned senior counsel pointed out that though a show cause notice was issued to the petitioner on 24.11.2015/27.11.2015, the said notice did not call upon the petitioner to show cause against the proposed action of the respondent to blacklist the petitioner. Therefore, he submitted that when the show cause notice itself was issued indicating the proposed cancellation of the agreement alone, the first respondent is not justified in passing the impugned order also by blacklisting the petitioner, without there being any opportunity to the petitioner on such punishment. Therefore, he submitted that the blacklisting is in violation of the principles of natural justice. Further, he submitted that even otherwise such blacklisting cannot be imposed permanently, as the first respondent has not indicated the period of such punishment as well. Therefore, on both grounds, the learned Senior Counsel seeks to set aside the impugned order, in so far as the blacklisting of the petitioner is concerned.

3.Mr.K.Venkataramani, learned Additional Advocate General appearing for the first respondent very fairly admitted that blacklisting of the petitioner, not preceded by issuing any show cause notice, cannot be sustained and therefore, the matter has to go back to the first respondent for considering the matter afresh after issuing show cause notice to the petitioner. He also conceded to the position that blacklisting cannot be for an endless period without fixing the period of such punishment.

4.Heard both sides.

5.Upon hearing the learned Senior Counsel for the petitioner and the learned Additional Advocate General appearing for the first respondent, it is evident that the impugned order blacklisting the petitioner was passed without following the principles of natural justice. It is also an admitted fact that the punishment of blacklisting was made without reference to any period of such punishment. Therefore, this Court is fully convinced that the impugned order in so far as blacklisting the petitioner, cannot be sustained and the matter has to go back to

the first respondent, for reconsidering the matter afresh.

6. At this juncture, the learned Senior counsel for the petitioner submitted that in pursuant to the impugned order passed, the petitioner has already suffered the punishment for a period of one year and ten months and therefore, the first respondent may be directed to take into consideration the period of punishment already undergone by the petitioner, while taking the fresh proceedings.

7. The above submissions made by the learned Senior counsel for the petitioner is not seriously opposed by the learned Additional Advocate General and however, he submitted that it is open to the first respondent to take appropriate decision in this aspect.

8. I find force in the above submission made by the learned Senior Counsel for the petitioner. Needless to say that the punishment of blacklisting a person cannot be for an endless period. It is also not disputed that the petitioner has already undergone punishment for a period of one year and ten months. Therefore, it is for the first respondent to consider this aspect and take a decision accordingly by taking into consideration of all the facts and circumstances.

9. With the above observation and direction, the writ petition is allowed in part, by setting aside the impugned order in so far as the blacklisting of the petitioner alone is concerned. Consequently, the matter is remitted back to the first respondent to consider the matter afresh and pass fresh order, in so far as the blacklisting of the petitioner is concerned, by taking note of all the facts and circumstances as well as the observation made by this court. No costs. The connected miscellaneous petitions are closed.

s/d-

Assistant Registrar (CS-III)

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Sub-Assistant Registrar

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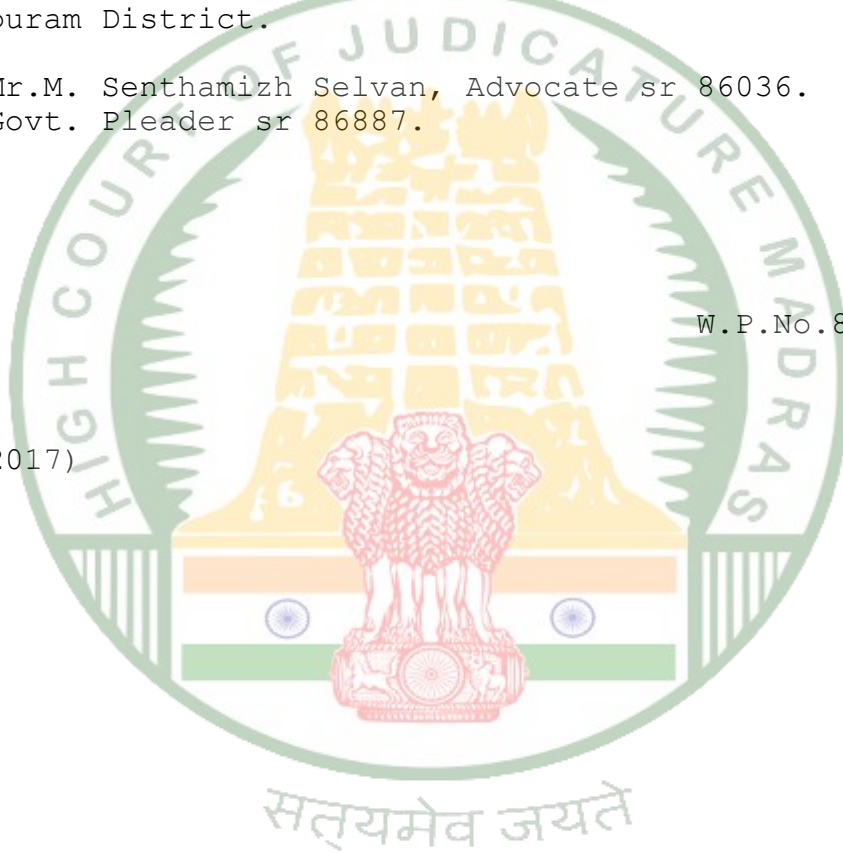
To

1. The District Collector/Chairman/DRDA,
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Kanchipuram District.
2. The Project Director,
District Rural and Development Authority,
Kanchipuram District.
3. The Assistant Executive Engineer (RD),
District Rural and Development Authority,
Kanchipuram District.

+1 CC to Mr.M. Senthamizh Selvan, Advocate sr 86036.
+1 cC to Govt. Pleader sr 86887.

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NMI (CO)
SP(21/12/2017)



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