

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

Rev.Application No.53 of 2017

in

W.P.No.455 of 2012

NCC Limited

(formerly Nagarjuna Construction
Company Limited)

NCC House, Madhapur,
Hyderabad 500 081.

.. Applicant

Vs

1.The Chief Engineer,
Public Works Department,
Central Office
34, Lal Bahadur Shastri Street,
Puducherry 605 001.

2.The Executive Engineer,
Public Works Department,
Yanam Division,
Puducherry 533 464.

3.The Director General of Works
Central Public Works Department,
Nirman Bhawan, New Delhi 110 011

.. Respondents

PRAYER: This Review Application is filed under Order XLVII Rule 1 of C.P.C. to review the order passed in W.P.No.455 of 2012 dated 17.02.2017.

For applicant : Mr.S.Santhosh for
Mr.P.Giridharan

For R1 & R2 : Mr.J.Kumaran
Government Advocate (Pondicherry)

For R3 : Mr.J.Madhana Gopal Rao
Senior Central Govt.Standing Counsel

ORDER

This review application has been filed by the review applicant to review the order dated 17.02.2017 passed in W.P.No.455 of 2012.

2. It is manifested from the records that the review applicant has moved this Court by filing a writ petition in W.P.No.455 of 2012 and the same was dismissed as infructuous, wherein it is stated that there is no bar for the petitioner to participate in future tenders which are floated by the Government Departments. The said fact is also not disputed by both the parties. Thereafter, the review applicant has filed the review application before this Court to consider the writ petitioner on merits, otherwise, it would affect the reputation of the petitioner's company in granting future contract to the petitioner to consider the writ petition on merits. Otherwise, it would affect the reputation of the petitioner Company in granting future contract to the petitioner.

3. The learned counsel for the review applicant would submit that the first respondent issued show cause notice dated 10.02.2011 to the petitioner and he has given an explanation dated 23.02.2011 before the concerned

authority. The first respondent without any communication to the petitioner had published the impugned notice in the Puducherry Edition of the New Indian Express dated 27.12.2011, to blacklist the petitioner for a period of three years from the date of issuance of notice.

4. On perusal of the impugned order passed by the first respondent, it reveals that in pursuant to the show cause notice dated 10.02.2011 passed by the first respondent, the petitioner has given an explanation dated 23.02.2011 before the authority. But the first respondent has issued impugned notice dated 27.12.2011, by informing that the explanation given by the petitioner has not been satisfied and the petitioner has been treated as blacklisted and the official dealings with the Public Works Department, Puducherry, has been banned for a period of three years. Challenging the impugned notice, the petitioner has filed the writ petition before this Court.

5. Mr.S.Santhosh for Mr.P.Giridharan, learned counsel for the petitioner would submit that the impugned notice passed by the first respondent is liable to be quashed on the ground of violation of principles of natural justice and without affording any opportunity to the writ petitioner. He would further submit that when such order of black listing has been passed without following principle of natural justice and passing impugned notice and the same is

published in the newspaper. Further, the impugned order passed by the first respondent is illegal, cryptic and without any reason. Therefore, the impugned order is liable to be quashed.

6. Per contra, M.r.J.Kumaran, learned Government Advocate (Pondicherry) appearing for the respondents 1 & 2 would submit that on verification from the records, an explanation submitted by the petitioner was duly considered and passed impugned notice. In the counter affidavit filed by the respondent. It is stated that the impugned order is final, an order passed by the first respondent. Therefore, it is clear from the counter affidavit and submissions made by the learned Government Advocate for the respondents 1 and 2, the order is final. But the first respondent has not passed any reasoned order and the same is communicated to the petitioner.

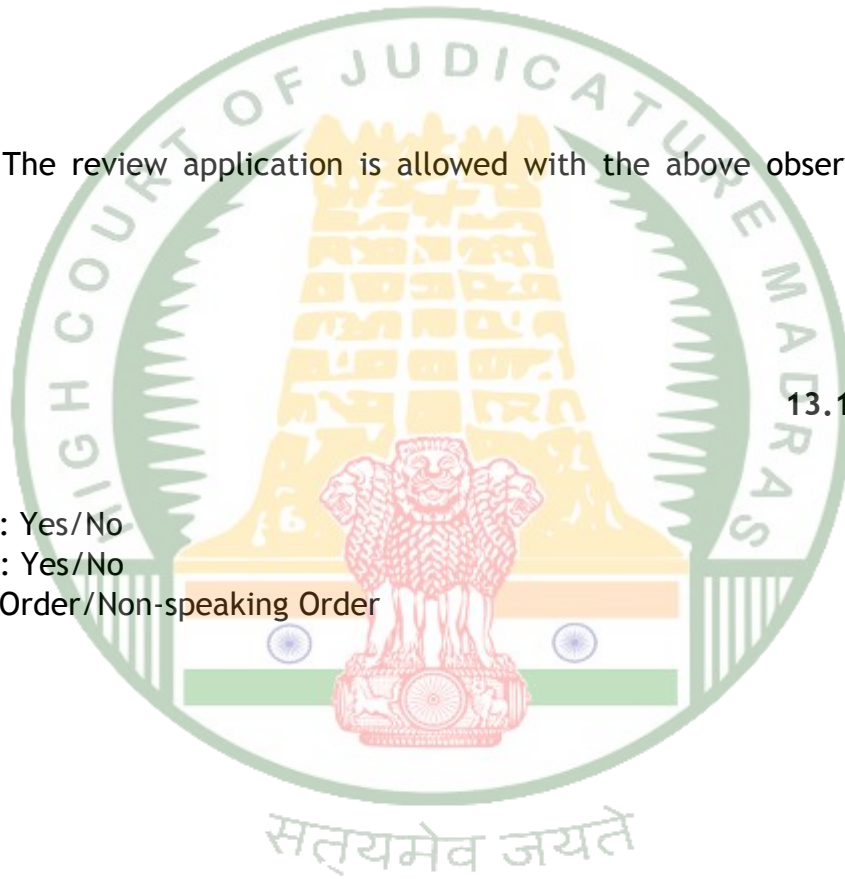
7. From the above facts, it is made clear that the respondent has not considered the explanation submitted by the writ petitioner and not passed reasoned order and even the impugned notice has been communicated to the petitioner. This Court has no hesitation to quash the impugned proceedings for violation of principle of natural justice and without passing the detailed reasoned order, for the explanation submitted by the petitioner.

8. In view of the above, the impugned notice passed by the first respondent is liable to be quashed and liberty is granted to the petitioner, to consider the explanation and pass reasoned order in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

9. The review application is allowed with the above observation. No costs.

13.12.2017

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-speaking Order
kkd



WEB COPY

D.KRISHNAKUMAR, J

kkd



Rev.Application No.53 of 2017
in
W.P.No.455 of 2012

WEB COPY

13.12.2017