

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.655 OF 2016

ORDER:

The writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings Lr.No.CGM/O&CS/EPDCL/VSP/GM-II/DE/O&M/III/D.No.639/14, dt.20.02.2014 of the 2nd respondent are illegal, arbitrary, void and consequently direct the respondents to remove from placing the name of the petitioner in the blacklist for 3 years.”

2. Heard Sri P.R.Balarami Reddy, learned counsel appearing for the petitioner, and Sri M.Ravindra, learned Standing Counsel appearing for the respondents.

3. According to the petitioner, he is an Electrical Contractor carrying on repair works of Sick Distribution Transformers in the departmental shed under the jurisdiction of the respondents herein. Vide letter bearing No.CGM/O&CS/EPDCL/VSP/GM-II/DE/O&M/III/D.No.920/13, dated 15.03.2013, the Chief General Manager/respondent No.2 herein issued a show cause notice, asking the petitioner to show cause as to why the petitioner herein should not be blacklisted for a period of three years alleging certain fraudulent practices on the part of the petitioner herein. In response to the said show cause notice, the petitioner herein submitted his explanation on 27.3.2013. Eventually, respondent No.2 herein passed an order vide Lr.No.CGM/O&CS/EPDCL/VSP/GM-II/DE/O&M/III/D.No.639/14, dated 20.02.2014,

ordering blacklisting of the petitioner herein for a period of three years on the ground that the petitioner herein committed corrupt and fraudulent practices in executing the contract.

4. According to the learned counsel for the petitioner, the said action on the part of the respondent authorities is highly illegal, arbitrary, unreasonable and violative of Articles 14 and 19(1)(g) of the Constitution of India. It is further submitted that respondent No.2 herein, having received the explanation offered by the petitioner herein, grossly erred in not considering the contents of the said explanation. It is further submitted that had the contents of the explanation, dated 27.03.2013, been considered by the respondents, the impugned order under challenge would not have emanated.

5. On the contrary, it is vehemently contended by Sri M.Ravindra, learned Standing Counsel for the respondents, that there is absolutely no illegality nor there exists any procedural infirmity in the impugned action and only after issuing notices and after considering the explanation submitted by the petitioner, respondent No.2 herein passed the questioned order.

6. The information available before this Court manifestly discloses that in response to the show cause notice, dated 15.03.2013, petitioner herein submitted an elaborate explanation urging various aspects. A perusal of the order under challenge shows that except referring to the said explanation, dated 27.03.2013, as one of the references in the impugned order, respondent No.2 herein did not undertake any exercise to consider the veracity of the contents of the explanation. In the considered

opinion of this Court, the said action cannot be sustained in the eye of law. Having issued the notice and having received the explanation offered by the petitioner herein, this Court finds absolutely no justification on the part of respondent No.2 in not considering the explanation offered by petitioner herein. On this ground alone, the impugned order is liable to be set aside.

7. For the aforesaid reasons, the Writ Petition is allowed, setting aside the order of respondent No.2 *vide* Lr.No.CGM/O&CS/EPDCL/VSP/GM-II/DE/O&M/III/D.No.639/14, dated 20.02.2014. Further, this order does not preclude the respondents from proceeding in accordance with law, if they are advised to do so. It is also open for the petitioner herein to place before the authorities all the relevant material in support of his case. There shall be no order as to costs.

8. Miscellaneous Petitions pending, if any, in this writ petition shall stand closed.

JUSTICE A.V.SESHA SAI

Date: 14.2.2017
AMD

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