

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

CWP No. 10440 of 2017
Date of decision: 27.07.2017

Lok Nath

.....Petitioner

Vs.

State of Punjab and others

.....Respondent

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Anant Bir Singh, Advocate for the petitioner.
Mr. I.P.S. Doabia, Additonal, AG, Punjab.
Mr. T.S. Sidhu, Advocate for respondent no.4.

Ajay Kumar Mittal,J.

1. The petitioner through the present petition under Articles 226/227 of the Constitution of India prays for a direction to respondent Nos.3 and 5 to allow him to carry out the execution of transport tender at Jalandhar Cluster allotted in his favour as respondent No.3 is illegally getting the work done for some other person. Further direction has been sought to respondent Nos.3 and 5 to compensate the petitioner for the loss suffered due to preventing him from carrying out the execution of transport contract despite providing trucks.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner has been working as Transport Contractor for various agencies including Pungrain in the State of Punjab. Respondent No.1 invited public tender for transport contracts for a period of one year for Jalandhar Cluster. The petitioner submitted his bid for the above said tender. Respondent No.3 vide letter dated 22.04.2017 informed that transport tender for Jalandhar Cluster had been approved by the Tender Allotment Committee on 21.04.2017. After negotiations, rate of 133% had been approved for all mandis in Jalandhar Cluster. The petitioner was directed to supply the trucks in the mandis on 22.04.2017. Notice was issued to the petitioner to explain the reasons as to why the trucks were not supplied. According to the petitioner, no allotment letter was issued to him. Similarly, District Manager, Punsup issued notice dated 22.04.2017 to the petitioner to explain the reasons as to why the trucks were not supplied. Further, District Manager Punjab Agro, Jalandhar issued notice dated 22.04.2017 to the petitioner for not supplying the trucks. Similar was the position with District Manager, Markfed, Jalandhar. The petitioner replied to the above said notices dated 22.04.2017 informing the concerned agencies that the work could not be commenced on the said date due to obstruction created by some persons. He further stated that the work will be commenced on 23.04.2017 in the mandis at 7:00 AM. On 23.04.2017, the petitioner provided the trucks in mandis at 7:00 AM. However, the Inspectors concerned did not start the lifting at the mandis. The petitioner sent E-mail/SMS in this regard to respondent Nos.3 and 5. The petitioner also attached photos of the trucks parked in the mandis. Later, the

respondents told the petitioner that they will cancel the tender and allot the same to other party. According to the petitioner, despite intimation to respondent Nos. 3 and 5 against the conduct of the Inspectors to the effect that he was not allowed to carry out the work at mandis despite providing trucks, no action was taken. The petitioner asserts that he was illegally stopped and prevented from carrying out the work on account of instructions from respondent No.3. Hence, the instant petition by the petitioner.

3. In the written statement filed by respondent No.3 on behalf of respondent Nos. 1 to 3 and 5, it has been inter alia stated in the preliminary objections that the petitioner has concealed the material facts from this Court. He was blacklisted vide order dated 23.04.2017, Annexure R.4 passed by the Tender Allotment Committee. This fact has neither been mentioned in the writ petition nor the same has been challenged by the petitioner. The Tender Allotment Committee had taken decision on 23.04.2017 in public interest as per policy, keeping in view the contingency situation arose in the mandi. Before passing the order dated 23.04.2017, Annexure R.4, the petitioner was issued notices on 22.04.2017 to execute the work and after hearing his due cause, he was also provided opportunity of being heard on 22.04.2017 by constituting a separate committee under the Additional Deputy Commissioner, Jalandhar. The procedure of revoking the blacklisting is also provided under separate policy guidelines issued by the Government on 3.12.2014 by filing appeal before the head of the concerned agency. Thus, the petitioner has an alternative remedy of filing an appeal before the Managing Director of the concerned agency.

4. We have heard learned counsel for the parties.

5. Admittedly, respondent No.1 invited public tender for transport contracts for a period of one year for Jalandhar Cluster. The petitioner submitted his bid for the said tender. The petitioner was directed to supply the trucks on specified date to carry out the work, but he could not execute the work due to some obstruction caused by certain persons. The petitioner tried to justify his stand before the authorities but in vain. Ultimately, the order of blacklisting was passed against the petitioner, vide order dated 23.04.2017, Annexure R.4. Learned counsel for the petitioner has not been able to substantiate the claim made in the petition by producing any material on record. However, during the course of arguments, he submitted that the order dated 23.04.2017, Annexure R.4 was passed by the respondents without affording an opportunity of hearing to the petitioner. He prayed that the said order to the extent of blacklisting the petitioner may be set aside.

5. After perusing the averments made in the writ petition, the written statement filed on behalf of the respondents and hearing learned counsel for the parties particularly when the State Counsel also could not dispute that blacklisting was done without affording any opportunity to the petitioner, we find that it would be in the fitness of things if the order dated 23.04.2017 to the extent it blacklists the petitioner is set aside. Accordingly, the order dated 23.04.2017, Annexure R.4 passed by the respondents is set aside to the extent of blacklisting the petitioner. It shall, however, be open to the respondent to pass fresh order relating to blacklisting after affording proper

opportunity of hearing in accordance with law. Consequently, the writ petition is disposed of.

(Ajay Kumar Mittal)
Judge

July 27, 2017
‘gs’

(Amit Rawal)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes