

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

**CWP No. 26797 of 2017
Decided on : 29.11.2017**

Sanhit Polymer

. . . Petitioner

Versus

Punjab State Civil Supplies Corporation Limited and others

. . . Respondents

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

PRESENT: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. M.S. Saini, Advocate for the petitioner.

Ms. Deepali Puri, Advocate
for respondents No.1 & 2.

AJAY KUMAR MITTAL, J. (Oral)

The petitioner has approached this Court under Article 226 of the Constitution of India, for quashing of the order dated 07th August, 2017 (appended as Annexure P-10), passed by respondent No.1, whereby, the petitioner has been blacklisted in future tenders of respondent No.1 for a period of five years, in pursuance to show cause notice dated 15th April, 2017 (Annexure P-3).

2. Learned counsel for the petitioner submitted that vide Annexure P-10, the petitioner has been blacklisted, which affects his civil rights and is not a speaking order. Accordingly, a prayer was made that the said order being in violation of the principles of natural justice be set aside and the order of blacklisting passed against the petitioner as well of debarring from participation in future tenders be set aside.

3. Notice of motion had been issued and in response thereto, written statement on behalf of respondent No.1 has been filed in court today, which is taken on record, subject to all just exceptions.

4. The averments made in the writ petition have been denied by learned counsel for respondent No.1 by way of written statement, wherein, it has been stated that the petitioner has been given two show cause notices, but the petitioner failed to respond to the said show cause notices and therefore, the impugned order dated 07th August, 2017 (Annexure P-10) was rightly passed.

5. We have heard learned counsel for the parties.

6. It has been recorded in the impugned order dated 07.08.2017 (Annexure P-10) that inspite of issuance of two show cause notices to the petitioner to explain its stand, vide Annexure P-10, no reply thereto was filed and the order of blacklisting was passed. It needs to be noticed that it has been specifically averred by the petitioner in the petition that a letter dated 21.09.2017 was addressed by it to respondent No.3 with a request to give proper completion certificates in respect of contracts of tendered items from the years 2011-12 to 2015-16, in order to produce the same before respondent No.1 and seek recalling of the order dated 07.08.2017. It has further been pleaded in the petition that as respondent No.3 was taking enormous time in supplying authentic documents of its work done by the petitioner, vide email dated 17.10.2017, prayer was made to extend the validity of the bid submission date to 31.12.2017 so as to enable it to participate in the Haryana Tender. Further, it has been claimed by the petitioner that the documents tendered by it were genuine & authentic and the delay in supplying further documents was on account of non-receipt thereof from respondent No.3 and more time was required to produce the same. Thus, there was no fault on the part of the petitioner in making efforts for completing the required documents. Once the respondents had

blacklisted and debarred the petitioner from participation in future tenders of PUNSUP for five years, which affects its civil rights, in the interest of justice, it is considered appropriate to refer back the case to the concerned authority to pass fresh speaking order after affording proper opportunity to the petitioner in accordance with law, as the non-supply of requisite documents by the petitioner to respondent No.1 could not be attributed to any malafides on the part of the petitioner or was deliberate on its part.

7. Accordingly, the writ petition is allowed and the order dated 07th August, 2017 (Annexure P-10) issued by the respondents No.1 is set aside. The matter is remitted to respondent No.1 to pass a fresh speaking order after affording an opportunity of hearing to the petitioner, in accordance with law, within two weeks from the date of receipt of certified copy of the order. Needless to say that anything observed herein above shall not be taken to be an expression of opinion on the merits of the controversy.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

November 29, 2017

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No