

Sr.No.106+222

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

**CM No.15-CW-COM of 2017 in/and
CWP-COM-No.6 of 2016**

Date of decision:06.03.2017

M/s R.L.Constructions Company

.....Petitioner

versus

Bharat Sanchat Nigam Ltd. and others

.....Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. Rakesh Gupta, Advocate
for the petitioner.

Mr. Anil Rathee, Advocate
for the respondent.

Rakesh Kumar Jain, J.(Oral)

CM No. 15-CW-COM of 2017

This application is filed for placing on record written statement
on behalf of the respondents.

Applicant is allowed.

Written statement is taken on record.

CWP-COM-No.6 of 2016

This petition is filed for the issuance of a writ in the nature of
certiorari for quashing the impugned order dated 15.09.2016(Annexure P-
5).

Counsel for the petitioner has raised two grievances in this writ
petition. Firstly, the order of black listing the petitioner without opportunity
of hearing and secondly, forfeiture of earnest money.

Counsel for the petitioner has submitted that the order has been
passed in respect of blacklisting and forfeiture without affording an

opportunity of hearing, violating the principle of Natural Justice much less audi alteram partem.

The respondent did not deny in reply that no opportunity of hearing was afforded to the petitioner, before passing the order of black listing and forfeiture of earnest money, rather it is submitted that the impugned order has been passed because the petitioner made a false averment about the issuance of solvency certificate from the bank.

Counsel for the petitioner has relied upon a judgment of the division bench of this Court, rendered in the case of *Super Publicity Pvt. Ltd., Chandigarh vs. Chandigarh Housing Board, Chandigarh and another* 2017(1) R.C.R.(Civil) 236 in which it has been held that before the earnest money is forfeited or the firm is declared black listed, opportunity of hearing is must. He has also relied upon other judgments of this Court rendered in the cases of *R.S.Labour & Transport Contractor vs. Food Corporation of India & others* 2016(6)R.A.J.437, *M/s Yadav Buildgers vs. State of Punjab and others* 2016(5) R.C.R.(Civil) 245, *Sukhdev Singh vs. State of Punjab and others* 2016(1) PLR 373, *Heera Lal vs. State of Punjab and others* 2013(4) R.C.R.(Civil) 328 and *M/s MSV International vs. HSRDC* 2012(3) PLR 180 to contend that the consistent view of this Court is that before black listing a firm and forfeiting the earnest money, opportunity of hearing must be given.

Counsel for the respondent has failed to cite any judgment to the contrary.

Thus, in view thereof, the present writ petition is hereby allowed and impugned order dated 15.09.2016(Annexure P-5) is set aside with liberty to the respondent to pass a fresh order in respect of forfeiture of

earnest money and black listing, after affording an opportunity of hearing to the petitioner and recording reasons.

6th March, 2017
Shivani Kaushik

[Rakesh Kumar Jain]
Judge

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*