

CWP No. 6110 of 2017(O&M)

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

**CWP No. 6110 of 2017 (O&M)
Date of Decision : 09.05.2017**

M/s Varrsana Ispat Ltd. and another

...Petitioners

Versus

State of Haryana and others

...Respondents

**CORAM: *HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
 HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL***

**Present: Mr. Puneet Bali, Senior Advocate with
 Mr. Prantap Sharma, Advocate and
 Mr. Arun Gupta, Advocate for the petitioners.**

Mr. Sandeep Moudgil, Additional Advocate General, Haryana.

S.J. VAZIFDAR, C.J.(Oral)

CM No.6939-CWP-2017

The application is allowed and affidavit is taken on record,
subject to all just exceptions.

CWP No. 6110 of 2017

The petitioners have challenged the respondents' decision contained in a letter dated 11.03.2015 (Annexure P-10) blacklisting/debarring them for a period of three years with immediate effect in respect of future business with respondent No. 2-Haryana Vidyut Prasaran Nigam Ltd. Respondents No. 3 and 4 are Officers of respondent No. 2. The order has been in effect now for over two years. The period

expires on 11.03.2018. The petitioners have stated that they did not challenge this order earlier as there was no reason for them to do so. It has now become necessary for the petitioners to challenge the order as they find that it comes in the way of their applying for contracts with other Government agencies and the Government itself. Government tenders often contain a term that a bidder would be ineligible, if it has been blacklisted/debarred by another Government or Government agency or instrumentality of the State. In fact, the petitioners intend participating in the tender processes initiated by certain enterprises, which contain such clauses. The last date for submission of bids in respect of the first of such tenders is 17.05.2017.

2. Without admitting the correctness of the impugned order, the petitioners now merely seek a reduction in the period of blacklisting. They state that they are willing to accept the order without prejudice to their contentions keeping in mind the practical aspects of the matter including the fact that a period of over two years has already elapsed.

3. We would ourselves have considered Mr. Bali's submissions on behalf of the petitioners that the period of two years and three months is in the facts and circumstances of the case sufficient even assuming that the order is valid.

A Court would not normally interfere with the period of blacklisting.

4. In the present case, the petitioners have not sought a reduction of the period before the respondents. One of the grievances of the petitioners is that the impugned order was passed without hearing them.

The official respondents were not responsible for the same. A show cause notice dated 12.02.2015 was forwarded by the respondents to the petitioners. Even assuming that the petitioners bona fide did not respond to the same on account of their not having read the notices, the respondents cannot be blamed for the same.

5. We, however, do not intend precluding the petitioners from making an application to the respondents for the limited purpose of reducing the period of blacklisting on the assumption that the order of blacklisting itself is valid. At the cost of repetition, the petitioners are willing to proceed on this presumption without prejudice to their rights and contentions and for the reasons already stated.

6. At this stage, we must mention that Mr. Bali stated that at this distant point of time, the petitioners do not wish to challenge the order of blacklisting itself also for the reason that it is limited only to the petitioners carrying on business with respondent No. 2. We do not express any opinion as to the effect of the order upon any other parties. The contentions of the parties in that regard are kept open.

The petition is, therefore, disposed of by the following order:

- (i) The petitioners are at liberty to make an application for reduction of the period of blacklisting. In the event of the petitioners doing so by 12.05.2017, the respondents shall take a decision on the same within four weeks of the receipt of the application.
- (ii) In the meantime, the petitioners shall be at liberty to submit tenders issued by 3rd parties without any impediment on

account of the impugned order but on the express condition that such bids/participation will be subject to the orders to be passed on the petitioners' application for reduction in the period of blacklisting. In the event of this direction creating any difficulties for 3rd parties, the 3rd parties are at liberty to approach this Court for setting-aside or for a modification thereof.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(ANUPINDER SINGH GREWAL)
JUDGE

09.05.2017
kanchan

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No