

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16989 of 2017

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Raman Kumar Singh, Son of Late Ram Chandra Prasad Singh, Resident of Village-Gautam Nagar, Ward No. 11, P.S.- Saharsa, P.O.-Saharsa, District-Saharsa.

.... Petitioner/s

Versus

1. Bihar State Food and Civil Supplies Corporation Ltd, Bihar, Patna through its Managing Director.
2. Managing Director, Bihar State Food and Civil Supplies Corporation Ltd, Bihar, Patna.
3. Chief of Administration, Bihar State Food and Civil Supplies Corporation Ltd, Bihar, Patna.
4. District Manager, Bihar State Food And Civil Supplies Corporation Ltd., Bihar, Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Aditya Prakash Sahay, Advocate.

For the BSFC : Mr. Shailendra Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-02-2018

Heard learned counsel for the petitioner as well as learned counsel for the respondents.

2. The present writ petition has been filed for the following reliefs:

(A) For quashing of order contained in memo no. 3899 dated 28.03.2016 passed by the Managing Director, Bihar State Food and Civil Supplies Corporation Ltd, Bihar (hereinafter referred to as Corporation) whereby and whereunder following orders have been passed against the petitioner.

i. Agreement relating to transportation cum handling was cancelled as the petitioner's name was



kept in blacklist for black marketing the food grains.

ii. Security deposits and Bank guarantees of the petitioner have also been ordered to be forfeited for violation of Clause-9 of the Agreement .

iii. The loss sustained by the Corporation has been ordered to be realized from the bills of the petitioner.

(B) For a direction upon the respondent authorities for making payments of the bills of the petition which has been withheld due to cancellation of agreement and blacklisting.

(C) And for any other relief(s) for which the petitioner is entitled for.”

3. Learned counsel for the petitioner assails the impugned order of blacklisting mainly on two grounds, namely, (a) that though a notice was issued as far back as on 19.02.2016 for taking various actions such as termination of the agreement, forfeiture of security deposit etc and for blacklisting, no action was taken for blacklisting at the relevant time and thereafter all of a sudden the impugned order of blacklisting has been passed on 28.03.2016 without any further show cause notice; and (b) that the impugned order has been passed banning all the business activities of the petitioner which amounts to an order of blacklisting for all times to come, which is wholly arbitrary and illegal.

4. Learned counsel for the respondents appears and has been heard but however is unable to controvert the stand of the



petitioner.

5. Having heard the parties and on consideration of the materials on record, this Court finds merit in the submissions of the petitioner. In *Kulja Industries Limited vs. Chief General Manager, Western Telecom Project, Bharat Sanchar Nigam Limited and others*, (2014) 14 SCC 731, the Apex Court observed as follows :-

“25. Suffice it to say that "debarment" is recognised and often used as an effective method for disciplining deviant suppliers/contractors who may have committed acts of omission and commission or frauds including misrepresentations, falsification of records and other breaches of the regulations under which such contracts were allotted. What is notable is that the "debarment" is never permanent and the period of debarment would invariably depend upon the nature of the offence committed by the erring contractor.”

6. It would appear that the principles in regard to “debarment” and “blacklisting” would be the same in view of para 21 of the said judgment, wherein it has been observed as follows –

“21. The legal position governing blacklisting of supplies in U.S.A. and U.K. is no different. In U.S.A. instead of using the expression “blacklisting” the term “debarring” is used by the statutes and the Courts.”

7. In the above view of the matter, the impugned order of blacklisting dated 28.03.2016 (Annexure-1) is being interfered with only to the extent that the petitioner has been barred from carrying on its business activities for an indefinite period. The matter is remanded



to the Managing Director, Bihar State Food and Civil Supplies Corporation Ltd. Bihar, Patna (Respondent No. 2) for taking a fresh decision with respect to the period of blacklisting to be imposed upon the petitioner after grant of opportunity of hearing to the petitioner in accordance with law.

8. As regards the issue relating to forfeiture of security deposits, bank guarantees as well as realization of amounts from the bills of the petitioner, he shall be at liberty to file a separate writ petition for redressal of his grievances.

9. The writ petition stands allowed as above.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	27.02.2018
Transmission Date	N.A.

