

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17455 of 2016

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M/s Omdeo Packers & Movers Pvt. Ltd. through its Managing Director, namely Purnima Singh, wife of Rana Saumitra Deo Singh, having its registered office at Shop No.15, L.N. Tower, Main Road, Kankarbagh, P.S.- Kankarbagh, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Food & Civil Supplies, Government of Bihar, Patna.
2. The Bihar State Food & Civil Supplies Corporation Ltd., Patna through its Managing Director.
3. The Managing Director, Bihar State Food & Civil Supplies Corporation Ltd., Patna.
4. The District Manager, Patna, Bihar State Food & Civil Supplies Corporation Ltd., Patna.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Sandeep Kumar, Mr. Rana Vikram Singh, Advocates
For the BSFC	:	Mrs. Namrata Mishra, Advocate
For the State	:	Mr. Upendra Pratap Singh, AC to GA6

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 08-02-2018

Heard learned counsel for the petitioner and learned counsel
for the respondents.

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

“(i) For quashing the Memo No. 944 dated 21.01.2016 issued under the hand of Managing Director, Bihar State Food & Civil Supplies Corporation Ltd. whereby and whereunder the agreement dated 21.06.2015 with the firm for door step delivery from godown was cancelled, the firm was blacklisted and Bank Guarantee and security amount of the Firm was directed to be



encashed and forfeited.

(ii) For commanding and directing the respondents to make payment of outstanding amount of Rs. 72 Lacs of the petitioner firm for the door step delivery work already done during 22.06.2015 to December 2015 with due and admissible statutory interest thereon.

(iii) For an appropriate order commanding and directing the respondents to allow the petitioner firm to complete its work in terms of the agreement dated 21.06.2015 whereby the door step delivery work from Bihar State Food and Civil Supplies Corporation Limited godowns to Fair Price Dealer Shop has been allotted to the petitioner firm for a period of one year from 21.06.2015.

(iv) For an appropriate order for allowing the petitioner to participate in the future bidding/tender of the Bihar State Food and Civil Supplies Corporation Limited or any other government bodies, corporation for performing and discharging the obligations pursuant to stipulation in those agreements.

(v) For any other writ, order, direction which the petitioner firm may be found eligible and entitled to and which may also seem just, proper and necessary in order to safeguard the rights and interest of the petitioner firm."

2. At the very outset, Mr. Sandeep Kumar, learned counsel appearing on behalf of the petitioner confines his prayer with regard to the impugned order dated 21.01.2016, which is arbitrary and illegal in



view of the indefinite period of blacklisting meted out to the petitioner. He relies on the decision of the Apex Court in *Kulja Industries Limited vs. Chief General Manager, Western Telecom Project, Bharat Sanchar Nigam Limited and others*, (2014) 14 SCC 731 to submit that a blacklisting order cannot enure for an indefinite period.

3. Learned counsel for the respondents opposes the writ petition but however is unable to show that the impugned order of blacklisting the petitioner for indefinite period is not in violation of the principles laid down in *Kulja Industries* (supra).

4. 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* (supra) it was 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.”

5. It would appear that the principles in regard to “debarment” and “blacklisting” would be the same in view of paragraph 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.”

6. In the above view of the matter, the impugned order contained in Memo No. 944 dated 21.01.2016 (Annexure-21) is hereby quashed and the matter remanded to the Managing Director, Bihar State Food & Civil Supplies Corporation Ltd., Patna. (Respondent No. 3) 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.

7. The petitioner further prays for payment of outstanding amount of Rs. 72,00,000/- for the work already done by it during the period 22.06.2015 to December 20015.

8. It is submitted that despite the bill of Rs. 72,00,000/- having been submitted by the petitioner which was recommended by the District Manager, Bihar State Food and Civil Supplies Corporation, no payment has been made to it.

9. Having regard to the nature of the grievances of the petitioner and with consent of the parties, this writ petition is disposed of, granting liberty to the petitioner to the District Manager, Patna, Bihar State Food & Civil Supplies Corporation Ltd., Patna. (Respondent No. 4) with a fresh representation for redressal of its



grievances. If any such representation is filed within a period of two weeks from today, the same shall be considered and disposed of, ensuring payment to the extent found due to the petitioner, within a period of six weeks from the date of receiving the petitioner's representation. Any delay in payment of the admitted amount beyond the stipulated period as stated above, shall entitle the petitioner to receive payment together with simple interest at the rate of 6% per annum on the admitted dues calculated from the date when the amount became due till the date of its actual payment. In case the petitioner's claim is found inadmissible, whether in whole or in part, the petitioner's representation shall be disposed of by a speaking order in that regard.

10. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

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

