

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8795 of 2018

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M/s Gaya Coke Company Pvt. Ltd., a Company incorporated under the Provisions of the Companies Act, 1956 having its Place of Business Situated at Biniadganj, P.S. Maanpur, District- Gaya through its Managing Director, Ashok Kumar Singh S/o Shri Babban Singh Resident of Lakhi Bagh, P.S. Maanpur, District- Gaya.

.... Petitioner/s

Versus

1. The Central Coalfields Ltd. , a Subsidiary of Coal India Ltd., (Sales & Marketing Department), Darbhanga House, Ranchi through its Chairman-cum-Managing Director.
2. The General Manager(Sales & Marketing), Central Coalfields Ltd. Darbhanga House, Ranchi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Agrawal

For the Respondent/s : Mr. Vishwa Mohan Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 10-09-2018

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

The present writ petition has been filed for quashing the
black-listing order dated 12.08.2015, as contained in Annexure-6 to
the writ petition, by which the petitioner has been informed by the
General Manager (Sales & Marketing), Central Coalfields Limited,
that all business activities including Spot e-auction and forward e-
auction between the respondent no.1 and the petitioner is banned.

The learned counsel for the petitioner has assailed the



impugned order of black-listing on the ground that notice was issued prior to termination on 20.07.2012, but thereafter no action was taken and all of sudden, the impugned order of black-listing dated 12.08.2015 has been passed without any further show cause notice, although the agreement has been terminated by an order dated 30th April, 2013 in pursuance to the aforesaid show cause notice. It is further submitted that all the activities of the petitioner has been banned which amounts to an order of black-listing for all times to come, which is arbitrary and illegal. The learned counsel for the petitioner has referred to a judgment reported in (2014) 14 SCC 731 [Kulja Industries Ltd. v. Western Telecom Project BSNL], paragraphs 1 and 25 whereof are being reproduced herein below:-

“1. Leave granted. The short question that falls for determination in this appeal is whether the respondent, Bharat Sanchar Nigam Ltd. (for short “BSNL”) could have blacklisted the appellant for allotment of future contracts for all times to come. The High Court of Judicature of Bombay before whom the blacklisting order was assailed by the appellant has answered that question in the affirmative and dismissed¹ Writ Petition No. 2289 of 2011 filed by the appellant giving rise to the present appeal.

25. Suffice it to say that “debarment” is recognized 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”.



The learned counsel for the petitioner has further relied upon a judgment dated 22.2.2018 passed by this Court in CWJC No. 7591 of 2016 wherein also in similar circumstances the order of black-listing has been quashed.

Per contra, the learned counsel for the respondents has submitted that the petitioner has already challenged the order of termination of the agreement and as far as the present writ petition is concerned, the same has been filed belatedly, hence the petitioner is not entitled to any relief.

I have heard the learned counsel for the parties and gone through the materials on record and I find that the present case is squarely covered by the aforesaid judgment rendered by the Hon'ble Apex Court as also one rendered by this Court by judgment dated 22.02.2018 passed in CWJC No. 7591 of 2016.

For the reasons mentioned herein above, the impugned order of black-listing dated 12.08.2015 is quashed to the extent the petitioner has been debarred from carrying his business activities for an indefinite period.

Accordingly, the matter is remanded to the General Manager (Sales & Marketing), Central Coalfields Limited, Ranchi for



taking a fresh decision with respect to the period of black-listing to be imposed upon the petitioner after granting opportunity of hearing to the petitioner herein in accordance with law.

It goes without saying that General Manager (Sales & Marketing), Central Coalfields Limited, Ranchi shall be obliged to pass a final order within a period of six weeks from today.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13.09.2018
Transmission Date	

