

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7591 of 2016

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1. M/s Maa Mundeshwari Carbon Pvt. Ltd. a Company incorporated under the provisions of the Companies Act, 1956 having its place of business situated at Bhairapur, P.O. Paharia, P.S. Bhagwanpur, District Kaimur at Bhabhua through one of its Directors, Manoj Kumar Singh, S/o Shri Rajeshwar Prasad Singh, Resident of Bhairapur, P.O. - Paharia, P.S. - Bhagwanpur, District - Kaimur at Bhabhua.

2. Manoj Kumar Singh, S/o Shri Rajeshwar Prasad Singh, Resident of Bhairapur, P.O. - Paharia, P.S. - Bhagwanpur, District - Kaimur at Bhabhua.

.... Petitioners

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.

.... Respondents

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Appearance :

For the Petitioner : Mr. Alok Kumar Agrawal
Ms. Parijat, Advocates

For the Respondents : Mr. Vishwa Mohan Kr. Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 22-02-2018

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

2. The present writ petition has been filed for quashing the blacklisting order communicated in the unit of the petitioners situated at Bhagwanpur, Kaimur (Bhabhua) by registered post vide letter No. 8489-8510 dated 12.08.2015 (Annexure-14) by which the petitioner-firm has been informed by the respondent-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-firm is banned; for quashing the impugned order of blacklisting on the ground that the same has been passed without any notice and without any opportunity of hearing; and for connected reliefs.

3. Learned counsel for the petitioner-firm assails the impugned order of blacklisting mainly on two grounds, namely, (a) that though a notice was issued as far back as on 07.09.2011 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 12.08.2015 without any further show cause notice; and (b) that the impugned order has been passed banning all the business activities of the petitioner-firm 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 12.08.2015 (Annexure-14) 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 General Manager (Sales & Marketing), Central Coalfields Ltd., Ranchi (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. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	26.02.2018
Transmission Date	N.A.

