

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6331 of 2018

=====

Kaimuranchal Vikash Samiti, Through Its Secretary, Arun Kumar Upadhyay,
Son of Dhanush Dhari Upadhyay, Resident of Village Barhuli, P.S. Bhabua, P.O.
Sonhan, District Kaimur at Bhabua

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Govt. of Bihar, Patna
2. The District Magistrate, Sasaram at Rohtas.
3. The District Program Officer, Sasaram at Rohtas
4. The D.D.C., Sasaram at Rohtas

.... Respondents

=====

Appearance :

For the Petitioner : Mr. Dharmendra Kumar Singh, Advocate.
For the Respondents : Mr. Manish Kumar, GP-4

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 15-05-2018

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

2. The present writ petition has been filed for quashing of
order dated 22.06.2017 passed by the respondent no. 2 vide letter no.
709 by which the learned Collector Cum District Magistrate Rohtas at
Sasaram has blacklisted the firm-petitioner without hearing to him;
and for further direction to the respondents to refund the money of
the petitioner which was deposited by it as securities.

3. At the very outset learned counsel appearing on behalf of
the petitioner confines his prayer with regard to the impugned order
dated 22.06.2017, 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.

4. Learned counsel for the respondents appears and has been heard. But he 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).

5. Having heard the parties and on consideration of the materials on record, this Court finds merit in the submission 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."

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 dated 22.06.2017 (Annexure-1) is being interfered with only to the extent that the petitioner has been blacklisted from carrying on its business activities for an indefinite period. The matter is remanded to the District Magistrate, Rohtas at Sasaram (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/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.05.2018
Transmission Date	N.A.

