

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8865 OF 2018

Ankita Enterprises

.. Petitioner

vs

State of Maharashtra & anr

.. Respondents

Ms.Alpana Ghone i/b. Mrs.Shruti Kelji and Mr.Ameya Lambhate for
Petitioner

Mr.Yogesh Chawak and Mr.Dnyaneshwar Jadhav i/b. M/s Legasis Partner
for Respondent no.2.

....

**CORAM : NARESH H.PATIL ACTING C.J. &
G.S.KULKARNI, J.**

DATED : 1st OCTOBER 2018

P.C. :

1. Heard Ms.Alpana Ghone learned counsel for the petitioner,
learned AGP and learned counsel for the respondent no.2, the contesting
respondent.

2. The challenge in this petition is to the notice dated 3rd October
2017 issued by the respondent no.2 whereby the petitioner is informed that
the petitioner's name is included in the list of black listed contractors,
prohibiting the petitioner from participating in the tenders of respondent
no.2.

3. The principal grievance as urged on behalf of the petitioner is that the impugned decision to black list the petitioner is illegal being in breach of the principles of natural justice, as admittedly no hearing was granted to the petitioner before taking the said decision.

4. Learned counsel for the respondent no.2 has however, supported the decision as taken on behalf of the respondent no.2. He contended that the facts and circumstances justified the respondent no.2 in passing of the said order.

5. Having heard learned counsel for the parties and having perused the record, we see much substance in the contention as urged on behalf of the petitioner. It is a settled principle of law as laid down by the Supreme Court in **M/s Erusian Equipment and Chemicals Ltd vs State of West Bengal AIR 1975 SUPREME COURT 266** and **Southern Painters vs Fertilizers & Chemicals Travancore Ltd AIR 1994 SUPREME COURT 1277**, that an order to blacklist a contractor entails civil consequences, such an order cannot be passed unless the authority adheres to the principles of natural justice. There is no material on record which would indicate that the principles of natural justice were followed and an opportunity of a hearing was accorded to the petitioner, before passing the impugned order black listing the petitioner thereby preventing the petitioner from participating in the tenders of respondent No.2. The said

decision is thus *ex-facie* illegal. We do not express any opinion on other reliefs as sought by the petitioner. Accordingly, we allow the petition on this limited count by the following order :

O R D E R

- (i) The impugned communication dated 3rd October 2017 to the extent it has black listed the petitioner stands set aside.
 - (ii) In view of the setting aside of the order, it would be open to the petitioner to participate in the future tenders.
 - (iii) All contentions of the parties on the other issues are expressly kept open.
 - (iv) The writ petition is accordingly partly allowed in above terms.
- No costs.

Prashant
Vilas
Rane

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signed by
Prashant
Vilas Rane
Date:
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(G.S.KULKARNI, J)

ACTING CHIEF JUSTICE