

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.1265 of 2012

ORDER:

Heard Mr.K.V.Raghuveer for petitioner, learned Assistant Government Pleader for Municipal Administration, Mr.Praveen Kumar for 2nd respondent and Mr.C.R.Kalyan holding for Mr.K.Chidambaram for 4th respondent.

The petitioner challenges Proceedings ROC.No.E1/EPF/182/2009-10, dated 04.01.2012, black listing the petitioner's firm and forfeiting the EMD as violative of principles of natural justice, unsustainable and unconstitutional.

On 09.02.2012, the impugned proceeding dated 04.01.2012 was suspended by this Court.

The 2nd respondent filed petition to vacate the interim order, dated 09.02.2012.

The writ petition is heard and disposed of, at this stage, with the consent of counsel appearing for parties.

The 2nd respondent, in reply to the allegation of petitioner that the petitioner was not put on notice or given opportunity before issuing the impugned proceedings, states as follows :-

“In reply to para 5 of the affidavit, it is submitted that it is true that the workers union again on 31.12.2011 submitted a representation stating that the department/principal employer failed to fulfill their responsibility and neither saw that the contractor remitted the due amounts nor initiated any action against them. They have stated in their representation

that even after the contractor tried to misguide the department by producing fake challans/ letters, department failed to initiate any action against them. The workers have submitted this representation to DMA/ Hyderabad, RD/ Warangal, District Collector/ Khammam, Joint Collector/ Khammam and Labor Department also. In their representation the workers have demanded the department either to make necessary arrangements from the contractor to arrange their individual EPF slips or to initiate appropriate action as per law – otherwise, they will go on indefinite strike with effect from 07-01-2012. At this stage, the department has enquired the actions initiated in such type of cases and came to know that the Hon'ble Lokayuktha Court, Hyderabad has issued orders in the case of CPDCL, Hyderabad by taking up the issue suo motu and directed the CPDCL authorities to keep the concerned contractors' names in BLACK List.

Hence, the matter was placed before the Joint Collector, Khammam and Special Officer, Kothagudem Municipality for according the permission to keep the defaulter contractor in BLACK LIST with immediate effect. Accordingly the Special Officer has accorded the permission to keep the defaulter contractor in BLACKLIST, vide Municipal Council Resolution Number 98, dated 03-01-2012.”

From the above, it is clear that the petitioner in fact is not put on notice for either of the decisions proposed to be taken by 2nd respondent and such black listing or forfeiting the EMD is unsustainable and illegal.

This Court, having regard to the nature of allegations against the petitioner, considers it appropriate to direct the parties to treat the impugned proceedings, dated 04.01.2012, as show-cause notice and give opportunity to petitioner as well as

4th respondent to file their respective representations before 2nd respondent within four weeks from the date of receipt of a copy of this order. The 2nd respondent is directed to pass orders within four weeks from the date of receipt of representations, as stated above.

The writ petition is disposed of, as indicated above. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 21-03-2018
Prv

S. V. BHATT, J



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Prv