

**HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

WRIT APPEAL No.1332 of 2018

Judgment: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

We have heard the learned counsel for the appellant-writ petitioner and Sri C. Appaiah Sharma, learned Standing Counsel for the Telangana State Medical Services and Infrastructure Development Corporation. We have also heard the learned Government Pleader for Medical Health and Family Welfare for the third respondent.

2. The appellant-writ petitioner is a manufacturer of pharmaceutical drugs. Two drugs of the appellant stand blacklisted by the 1st respondent. Among them, the blacklisting of one drug is subjected to a Writ Petition. That Writ Petition is pending with an order to send the material for a second report from the Central Drug Laboratory, Calcutta. There were Writ Appeals against that order of the learned Single Judge before this Court. Those appeals stand closed, thereby, ensuring that the samples shall be sent to the Central Drug Laboratory at Calcutta, however, leaving open the preferential consideration or evidentiary value of the reports that would be given by the Central Drug Laboratory, Calcutta as well as other reports available with the 1st respondent.

3. Pending consideration of the issue of blacklisting of the particular drug, which blacklisting is the subject matter of the Writ Petition, which is pending, the 1st respondent is stated to have issued a blacklisting order, which deprives the appellant-writ

petitioner from supplying any further drugs of any type for which it has already bid with the 1st respondent and also from participating in further bid processes of the 1st respondent. This means that the blacklisting which is the subject matter of the Writ Petition from which this Writ Appeal arises relates to the blacklisting of the manufacturer and not confined to any particular drug.

4. The appeal is against the order by which the learned Single Judge has issued notice before admission. The insistence of the appellant is that the appellant-writ petitioner was eligible to an interlocutory order staying blacklisting of the company since there was no pre-decisional notice before such blacklisting of the company, though the blacklisting of any particular drug by itself is not the subject matter of W.P. No. 32529 of 2018, from which this Writ Appeal arises.

5. We are of the view that on the totality of the facts and circumstances of the case, having regard to the fact that this is a commercial litigation and also having the potency to be relevant for pharmaceutical supplies and purchases to be utilized for consumption by human beings, the Writ Petition deserves an out of turn consideration to decide as to whether any interlocutory order has to be passed as sought for by the appellant-writ petitioner.

6. For the aforesaid reasons, this Writ Appeal is ordered directing the respondents to place their counter-affidavits on record in the Writ Petition, if it desires to contest that Writ Petition. This shall be done before the Writ Petition would stand listed before the learned Single Judge on 8.10.2018. The Registry is directed to list

W.P. No. 32529 of 2018 before the learned Single Judge as per roster on 8.10.2018. We request the learned Single Judge to consider any application for interlocutory relief pending in that Writ Petition, in accordance with law, possibly before the Dasara Vacation.

7. We clarify that we have not expressed anything on the merits and the learned Single Judge will decide on the interlocutory application untrammelled by anything stated herein.

Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.



THOTTATHIL B. RADHAKRISHNAN, CJ

S.V. BHATT, J

Date: 5th October, 2018

Note:
Furnish c.c. today.
b/o
pnb