

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-23920-2017 (O&M)

Date of decision:- 11.01.2018

Rachhpal Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present:- Mr. Anurag Chopra, Advocate,
for the petitioner.

Mr. P.S. Bajwa, Additional Advocate General, Punjab,
for respondents No. 1 to 5.

Mr. Sunny Singla, Advocate,
for respondent No. 6.

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S.J. VAZIFDAR, C.J. (ORAL)

The petitioner has challenged the official respondents' order dated 16.10.2017 terminating the contract allotted to him for the transport of goods and blacklisting him.

2. Under the contract, the petitioner was to transport the goods. The petitioner's case is that he arranged the vehicles as well as the labour and was in a position to transport the goods forthwith, but that he was prevented from doing so by the Union(s) operating in the same Mandi. In fact, the petitioner had filed CRM-M-38434-2017, inter alia, seeking an order directing the police authorities to provide protection. The police authorities apparently assessed the situation and in fact provided security.

3. We do not wish to express any further views on the merits of the matter as the period for the contract comes to an end in any event on 31.03.2018. If the petitioner was in fact prevented from carrying out the work and the private respondent No. 6 or any other party was responsible for the same, the petitioner is always at liberty to file appropriate proceedings for damages and/or compensation.

4. The issue of blacklisting, however, remains. The official respondents by the impugned order dated 16.10.2017 blacklisted the petitioner. The order contains no reasons whatsoever. The order does not even consider the facts except to state that the petitioner had not carried out the work. The circumstances in which the petitioner had not carried out the work are not even adverted to. The official respondents had not even served a notice calling upon the petitioner to show cause against a proposed blacklisting. The previous notices only called upon the petitioner to carry out the work and stated that failure to do so would compel the respondents to take necessary action. Blacklisting is not the only action that the official respondents can take in the case of an erring contractor. They could also rest content by forfeiting any amount(s) that may have been deposited or claiming further amount(s). The notice must specifically state that blacklisting was one of the proposed actions. In the absence of such a notice, a party would be deprived the opportunity of meeting the case of blacklisting. Further still, the petitioner was not even afforded an opportunity of being heard. There is at least nothing on record that establishes the same. The petitioner would be entitled to succeed on any of these grounds.

5. In these circumstances, the impugned order dated 16.10.2017 in so far as it blacklists the petitioner is

quashed and set aside. The petitioner shall be at liberty to file appropriate proceedings against the concerned parties for any other reliefs including for damages. The petitioner shall be entitled to make an application to the official respondents for refund of any amounts that may be lying with them. Such an application, if made, shall be decided in accordance with law.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(AVNEESH JHINGAN)
JUDGE

11.01.2018
Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No