

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1726 of 2017**

1. M/s Yogita Arts (A Film Production House) Through Its Proprietor Shri Kshamanidhi Mishra, S/o Late Ujjwal Mishra, Office At House No. 15, Sector 2 Gitanjali Nagar Raipur District Raipur Chhattisgarh

---- Petitioner**Versus**

1. Chhattisgarh Samvad Raipur Through Its Chief Executive Officer, An Associate Organisation Of Public Relation Department, Of Chhattisgarh Chhotapara, Raipur District Raipur Chhattisgarh.
2. The General Manager, Chhattisgarh Samvad Raipur, An Associate Organisation Of Public Relation Department Of Chhattisgarh Chhotapara, Raipur District Raipur Chhattisgarh.
3. The Chief Executive Officer / Principal Chief Conservator Of Forest. Chhattisgarh State Medicinal Plant Board Medical College Road District Raipur Chhattisgarh.

---- Respondent

For Petitioner	Dr. N.K. Shukla, Sr. Adv. with Shri J.N. Nande & Ms Abhyunnati Singh, Advocates
For Respondent No.1&2	Shri Dhiraj Wankhade, Advocate
For Respondent/State	Shri Alok Bakshi, Addl. Adv. General

Order On Board**By****Prashant Kumar Mishra, J.**

06/02/2019

1. The order Annexure–P/1 blacklisting the petitioner for procuring any contract for production of documentary films; as also for forfeiture of security amount of Rs.3,00,000/-; and withholding of Rs.5,75,000/- has been passed against the petitioner on the finding that the petitioner has forged some of the documents, claiming the same to be issued by the Chhattisgarh State Medicinal Plant Board.
2. The finding in respect of commission of forgery or fraud is essentially a finding of fact, which cannot be gone into unless the party who is to suffer adverse consequence is provided an opportunity of hearing in the said enquiry to find out the fraud.
3. Despite the fact that before blacklisting the petitioner was provided opportunity of hearing, but the fact remains that the said show cause notice was issued on the basis of an enquiry in which the respondent No.1 had already come to a conclusion that the petitioner has committed some fraud, therefore, in my considered opinion a fair opportunity of hearing has not been provided to the petitioner.
4. In view of violation of principles of natural justice at the first stage, when finding of commission of fraud was arrived at,

the matter should be enquired again after noticing the petitioner.

5. For the above stated reasons, the impugned order dated 25-5-2017 (Annexure – P/1) is quashed and the matter is remitted back to the respondent Samvad for taking fresh decision in the matter after providing due and fair opportunity of hearing to the petitioner. This will include supply of all the materials to the petitioner; obtaining its reply on the basic allegation of commission of fraud; and opportunity of personal hearing also. The petitioner shall also cooperate with the enquiry. Let the fresh proceedings be completed within a period of three months from today.
6. In the result, the writ petition is allowed to the extent indicated above, leaving the parties to bear their own cost(s).

Sd/-

Judge
Prashant Kumar Mishra

Gowri