

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 20 of 2019

M/s Hindustan Transport, A Proprietorship firm, through : its Proprietor Hanif Ahmed Khan, S/o Habib Ahmed Khan, Aged About 39 Years, R/o Near F.C.I. Adhari, Nawagaon Road, Dhamtari, Chhattisgarh.

---- Petitioner

Versus

1. Food Corporation Of India Through Its General Manager (Contract), Regional Office, Vidhan Sabha Road, Pandari, Raipur, Chhattisgarh.
2. Assistant General Manager (Contract), Food Corporation Of India, Regional Office, Vidhan Sabha Road, Pandari, Raipur Chhattisgarh.
3. Deputy General Manager (Contract) Food Corporation Of India, Regional Office, Vidhan Sabha Road, Pandari, Raipur Chhattisgarh.

---- Respondents

For Appellant	:	Shri Manoj Paranjpe, Advocate.
For Respondents	:	Shri B.P. Gupta, Advocate.

**Hon'ble Shri Ajay Kumar Tripathi, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu**

Order on Board

Per Ajay Kumar Tripathi, Chief Justice

06/03/2019

1. Heard learned counsel for the petitioner and learned counsel for the respondent-Food Corporation of India.
2. Order dated 29.10.2018 has been assailed by the petitioner by virtue of which the respondent authorities of Food Corporation of India (FCI) have firstly debarred the petitioner from participating in any other tender of the FCI for a period of five years from the date of issuance of the order and secondly that the petitioner would be liable for any loss suffered by the Corporation and the next tender will be floated/appointed on the absolute risk and cost of the petitioner.
3. We are intentionally not going into all the details and controversies behind which the impugned order dated 29.10.2018 (Annexure P-1)

came to be passed for the reason that second kind of punishment which has been imposed upon the petitioner that the next tender will be floated on the basis of his risk and cost, can be examined by the Grievance Redressal Committee on an application being filed by the petitioner. The outcome of the decision to be taken by the Committee will govern the second issue.

4. So far as the issue of debarment for a period of five years is concerned, from perusal of the records we did not find that there was any opportunity of hearing or notice issued in relation to such order which could have been passed against the petitioner. The debarment for a period of five years, in our opinion, is a very harsh order having significant implications for the petitioner. Since the principle of natural justice was not adhered to coupled with the fact that such punishment is disproportionate so irrational, the order of debarment of five years is set aside by us.
5. So far as the issue of next tender or award at the risk and cost of the petitioner is concerned, the Grievance Redressal Committee will look into the matter objectively and it is with this reason that we did not record the detailed submissions of either side lest it may prejudice any of the sides from making their submissions as well as allowing the authorities from taking a decision on an objective basis.
6. The writ application is allowed to the extent indicated above.

Sd /-

(Ajay Kumar Tripathi)
Chief Justice

Sd /-

(Parth Prateem Sahu)
Judge