

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.3454 OF 2018

HPL Electric and Power Ltd.

...Petitioner

vs.

Rashtriya Chemicals and Fertilizers Ltd.

...Respondent

Mr. Mohit Paul a/w Mr. Rahul Jain & Ms. Rishika Harish i/b Alpha Chambers for the Petitioner.

Mr. Karan Bhosale a/w Mr. Arsh Mishra i/b M.V. Kini & Co. for the Respondent.

**CORAM : B. P. DHARMADHIKARI &
SMT ANUJA PRABHUDESSAI, JJ.
DATE : 13/02/2019.**

P.C.:

. The petitioner assails the order of blacklisting dated 20/10/2016 on the ground that the order of blacklisting has been passed for conduct to which petitioner company is not party. Contention is bid was submitted by superior officers of the petitioner company privately and it was not an act of petitioner. They fabricated certain purchase orders and as the petitioner is not party to this fabrication, action against the petitioner is unwarranted. It is claimed that on the basis of action of blacklisting taken against the petitioner by respondents, Chhattisgarh State Renewable Energy Development Agency ("CREDA") has also taken action of blacklisting the petitioner, but after getting knowledge of facts and reality of the matter, that order has been suspended. Our attention is invited to various documents and pleadings to buttress the submission. It is claimed that petitioner, inherently, is not competent to bid in subject tender.

2. Learned counsel for the respondent submits that the employees

could not, on their own submit a bid on behalf of the petitioner and defence is by way of an afterthought.

3. During arguments it was stated that the petitioner company got knowledge of private act of its officers only after the impugned order dated 20/10/2016. However the facts show that even reply given to show cause notice dated 6/8/2016 was within knowledge of the petitioner company.

4. Contention is the petitioner company has initiated police action and guilty employees are being prosecuted. We find this action against employees hardly relevant.

5. Petitioner Company could have after blacklisting order pointed out to respondent that it had never participated in bidding and its employees have clandestinely submitted the bid. That is not the ground expressly taken even before this Court.

6. After going through the matter we find it difficult to appreciate how and why responsible employees representing company would indulge in such act. Had tender been awarded to petitioner, they hardly stand to gain anything. Though the petitioner company has attempted to disassociate itself with the action of employees it has not disassociated itself from "bid" at any time. We therefore find no substance in the petition. Petition is rejected.

(SMT ANUJA PRABHUDESSAI, J.)

(B. P. DHARMADHIKARI, J.)