

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.6376 of 2019

ORDER:

Heard. With consent of both the parties the Writ Petition is disposed of finally at the admission stage.

2. Petitioner claims to be engaged in the business of manufacturing of Mining Machinery having its industry established in shed No.29, Swarna Laghu Udyog, MIDC, Hingna, Nagpur, Maharashtra State. Petitioner claims to be a regular supplier of Mining Machinery and various underground mining consumables including flex strand cable bolts of various sizes to various subsidiaries of Coal India Limited, Hindustan Zinc Limited, TISCO, IISCO, Sunflag Steel and other Companies operating in underground coal mines. By the impugned order dated 11.02.2019, the petitioner Company was banned from doing business with the respondent Company for a period of six months commencing from 11.02.2019.

3. This order is primarily challenged on the ground that it does not contain reasons in support of such decision. According to the learned counsel, the impugned order has the effect of civil and evil consequences as banning the petitioner Company from carrying out business operations with the respondent Company would not only affect business of the petitioner Company with the respondent Company but also would have an impact in participating in tenders floated in any other Organization/Government. Therefore, consequences are very severe. As such, the impugned order ought to have been preceded

by notice and opportunity. Learned counsel places reliance on the Purchase Manual of the respondent-Company, particularly paragraph 12.8 thereof, which prescribes a detailed procedure for issuance of show cause notice. It also prescribes that if the Company/Party requests for inspection of relevant documents, the respondent-Company should facilitate such inspection. But, in the case on hand, the same was not extended to the petitioner.

4. Learned Standing Counsel for the respondent-Company does not dispute the fact that the impugned order does not contain the reasons in support of the decision taken. However, he sought to justify the impugned order by placing reliance on the show cause notice issued before passing the impugned order to contend that the impugned order is validly maintained.

5. A show cause notice was issued to the petitioner on 10.07.2017 leveling allegations against the petitioner. In response thereto, the petitioner filed explanation on 06.11.2017 explaining its stand. Earlier to the explanation, petitioner also requested the respondent Company to permit to inspect certain documents. While so, the order impugned does not discuss on the nature of explanation offered by the petitioner and also its request for inspection of documents. In one line it is stated, *"4. The same was examined in detail, and observed that there is no merit to consider the same"*. In other words, no reasons are assigned in the impugned order in support of the decision. As rightly contended by the learned counsel for the petitioner, the order impugned is bereft of reasons but it has adverse consequences. This order is nothing but amounting to black listing the petitioner Company.

When once any Company blacklists any contractor/supplier, such black listing has a cascading effect and would deprive the party from participating in any supply/contract that may be floated by respondent Company and any other Company. Therefore, consequences are grave in nature. Any decision, which results in evil consequences on the business activity of the person, cannot be made without following due process and without assigning reasons in support of the decision. Therefore, the order impugned is liable to be set aside and is accordingly set aside.

6. The Writ Petition is allowed. However, liberty is granted to the respondent Company to follow due process to take appropriate decision as warranted in pursuance to the show cause notice dated 10.07.2017 on due consideration of the explanation offered by the petitioner.

Miscellaneous Petitions pending in this writ petition, if any, shall stand closed. There shall be no order as to costs.

2nd April, 2019.

P.NAVEEN RAO, J

Note : Issue C.C. in a week.

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