

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

**RSA No.3219 of 2017 (O&M)
Date of Decision:28.03.2019**

M/s Parmar Construction Company, Contractors and Engineers

...Appellant(s)

Versus

Punjab State Electricity Board and others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.P.S.Rana, Advocate for the appellant.
Mr.Sehajbir Singh, Advocate for the respondents.

ANIL KSHETARPAL, J.

The plaintiff-appellant is in the regular second appeal against the concurrent findings of fact arrived at by the courts below.

The plaintiff through the present suit had challenged the order passed by the respondent-Punjab State Electricity Board, blacklisting the plaintiff-contractor for eternity. The plaintiff had stated that the order of blacklisting was passed without giving him any opportunity of hearing to explain.

In the written statement, this fact was not denied, however, it was pleaded that there is an arbitration clause. Both the courts rather than deciding the question as to whether the order of blacklisting is after following the principles of natural justice, went astray and returned a finding that various notices were given to the plaintiff to complete the work but since it was not completed, therefore order of blacklisting is justified.

During the course of arguments, learned counsel for the defendants-respondents could not point out any material which may prove that before passing the order of blacklisting, the plaintiff-contractor

was ever given opportunity or ever given any show-cause notice to the effect that why the plaintiff-Firm should not be blacklisted.

In view thereof, the courts should have restricted themselves to the matter in issue before the court. Still further, normally, there cannot be any order for blacklisting a contractor till eternity. The order of blacklisting has very severe consequences which results in contractor being disqualified from carrying on the business. Such order should be passed by the authority with much circumspection. In this case, neither opportunity of hearing has been given nor principles of natural justice have been followed nor the order shows that the authority considered as to for which period the plaintiff is required to be blacklisted.

In view of the judgment of the Constitution Bench of the Hon'ble Supreme Court in *Pankajakshi (Dead) through LRs Vs Chandrika and others, 2016 (6) SCC 157*, framing of question of law is not required as Section 41 of the Punjab Courts Act governs regular second appeals in the jurisdiction of Punjab, Haryana and UT Chandigarh. However, liberty is granted to the authorities to pass fresh order after following the procedure in accordance with law.

For the reasons recorded above, the regular second appeal is allowed. The judgments and decrees passed by the courts below are set aside. Pending misc. application(s), if any, shall also stand disposed of, in terms thereof.

28.03.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No