

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
Civil Writ Jurisdiction Case No.6145 of 2020**

Symbiosis Pharmaceuticals Private Limited a Company registered under the Companies Act, 1956, having its office at Village Nagal Suketi Road, Kala Amb, District Sirmour, Himachal Pradesh through its Authorised Signatory, Kumar Nitin, aged about 25 years (Male), Son of Upendra Kumar Singh, Resident of Ved Nagar, Ascent Public School, Bailey Road, District Patna 800014.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, 1st Floor Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, 1st Floor Vikas Bhawan, Bailey Road, Patna.
3. Bihar Medical Services and Infrastructure Corporation Limited, through its Managing Director, 4th Floor, State Building Construction Corporation Limited, Hospital Road, Shastri Nagar, Patna 800023.
4. The Managing Director, Bihar Medical Services and Infrastructure Corporation Limited, 4th Floor, State Building Construction Corporation Limited, Hospital Road, Shastri Nagar, Patna 800023.
5. The Chief General Manager (Supply Chain), Bihar Medical Services and Infrastructure Corporation Limited, 4th Floor, State Building Construction Corporation Limited, Hospital Road, Shastri Nagar, Patna 800023.
6. The General Manager (Procurement), Bihar Medical Services and Infrastructure Corporation Limited, 4th Floor, State Building Construction Corporation Limited, Hospital Road, Shastri Nagar, Patna 800023.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Suraj Samdarshi, Advocate
For the Respondent/s	:	Mr.Lalit Kishore (AG) Mr. Vikash Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 08-06-2020 This application has been placed for consideration by the order of the Hon'ble the Chief Justice through virtual court proceeding.

Heard learned counsel for the petitioner and learned



Senior Counsel assisted by Mr. Vikash Kumar, learned Advocate on record on behalf of the Bihar Medical Services and Infrastructure Corporation Limited (hereinafter referred to as the 'Corporation') and its authorities (respondent nos. 3 to 6).

The petitioner in the present case is aggrieved by and dissatisfied with the memo bearing no. BMSIC/40010/63-2019/5440 dated 12.12.2019 as contained in Annexure '8' to the writ application issued by the respondent no. 4 by which the petitioner company has been blacklisted for a period of two years and the earnest money deposit of Rs.1,00,000/- has been forfeited. Petitioner has further prayed for a direction to the respondents to remove the order of blacklisting from their official website and return Rs.1,00,000/- which is the earnest money deposit of the petitioner with the respondents.

In course of hearing, Mr. Suraj Samdarshi, learned counsel for the petitioner has heavily relied on his contention that in terms of the last show cause notice dated 06.11.2019 (Annexure '5') the petitioner was given an opportunity to submit its reply within seven days. It is his submission that the petitioner had submitted its reply dated 09.11.2019 as contained in Annexure '6' to the writ application but while passing the impugned order as contained in Annexure '8' the respondent no.



4 made a wrong statement in the impugned order that the petitioner firm did not respond to the said show cause notice.

Learned counsel submits that the impugned order has, thus, suffered from violation of principles of natural justice and is fit to be quashed on this ground alone.

It is his further contention that in his reply as contained in Annexure '6' petitioner had shown his willingness to sign the agreement with the department for one of the medicines because the raw material of the another medicine was not available in the Indian market. According to him, this aspect was required to be considered and that could have been considered only when the reply of the petitioner company would have been taken on the record and duly considered before passing of the impugned order.

Mr. Lalit Kishore, learned Senior Counsel assisted by Mr. Vikash Kumar, learned Advocate on record has categorically submitted before this Court that no doubt the reply of the petitioner as contained in Annexure '6' was received in the office of the respondent Corporation but while passing the impugned order as contained in Annexure '8' the said reply was not taken into consideration. It is thus, an admission on the part of the respondent Corporation through the learned Senior



Counsel that the order of forfeiture of the earnest money deposit and blacklisting as contained in Annexure '8' has been passed without considering the reply of the petitioner.

Learned Senior Counsel has, thus, fairly stated at the Bar that to that extent the impugned order does suffer from infirmity and they would have no objection if the impugned order is set aside on this solitary ground and liberty is granted to the respondent Corporation to pass a fresh order after considering the reply of the petitioner.

Having heard learned counsel for the petitioner and learned Senior Counsel for the respondent Corporation, in view of categorical stand taken on behalf of the Corporation showing that the impugned order does suffer from infirmity because of the non-consideration of the reply of the petitioner, this Court has no difficulty in quashing Annexure '8' of the writ application as contained in memo no. BMSIC/40010/63-2019/5440 dated 12.12.2019. Annexure '8' is thus, quashed.

The respondent Corporation is at liberty to pass a fresh order after considering the reply of the petitioner. Such order must contain reasons showing consideration of Annexure '6'. Until passing of the fresh order the name of the petitioner company shall not be shown in the list of the



blacklisted companies on the official website of the Corporation.

If it has already been posted, till a final decision, is taken by the respondent corporation the name of the petitioner company be removed from the list .

This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

