

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 3RD DAY OF NOVEMBER 2020

THE HON'BLE MS.JUSTICE P.T.ASHA

A. No.5533 of 2019

In the matter of Arbitration and  
Conciliation Act, 1996

and

In the matter of disputes between  
M/s Sri Sai Caterers And Bharatiya  
Nabikiya Vidyut Nigam Ltd

And

In respect of the agreement dated  
20-05-2015

And

In respect of the order of  
Blacklisting dated 16-10-2017.

M/s Sri Sai Caterers,  
Rep by its Proprietor,  
Mr.S.Satish Kumar,  
Son of M.Shankar,  
No.176/VII, Shekkilar Street,  
Indira Gandhi Nagar,  
Neikuppi Village,  
Vengampakkam Post, Kalpakkam,  
Kancheepuram District – 603 127.

... Applicant

-Versus-

Bharatiyan Nabikiya Vidyut Nigam Ltd. (Bhavini),  
Government of India Enterprise,  
Kalpakkam,  
Kancheepuram District-603102.

... Respondent

Application praying that this Hon'ble Court be pleased to stay the order of blacklisting, in No.BHAVINI/HR/Canteen/2017/1235 dated 16.10.2017 on the file of the respondent, pending disposal of the arbitration.

This Application coming on this day before this Court for hearing, the Court made the following order:

The above application is filed to stay the order of blacklisting dated 16.10.2017 on the file of the respondent.

2. The brief facts are as follows:

The applicant is a sole proprietor concern engaged in the food service industry for over 15 years. They had operated the canteen of the respondent after being the successful bidder in the auction that was held on 25.02.2015. Thereafter the Work Order dated 16.04.2015 was issued for running the Industrial Canteen at the respondent's premises at Kalpakkam. The contract was effective for a period of two years with effect from 15.04.2015. The service was extended for a period of three months up to 14.07.2017 at the closure of the contract period and once more till 14.11.2017.

3. The applicant would submit that the earlier officer-in-charge was very appreciative of the work of the applicant and has also given Certificate of appreciation. Thereafter minor complaints popped up and by reason of the above, the respondent had issued an email on 17.08.2017 setting forth unwarranted allegations. This was followed by the impugned order blacklisting the respondent by 16.10.2017. The applicant would submit that the blacklisting order has inter alia been passed without giving the applicant

an opportunity for putting forth his case. Therefore, considering the fact that the contract envisaged settlement of dispute by arbitration, this application has been moved.

4. The respondent has filed a counter inter alia contending that the allegations contained in the affidavit filed in support of the application are false and that the application is highly belated having been filed two years after the date of the impugned order.

5. The respondent has further submitted that an alternative contractor had also been appointed by the issue of Work order dated 16.11.2017 and the applicant has not chosen to implead him in the above proceedings.

6. The respondent would further submit that they were forced to blacklist the applicant in view of the unhygienic and poor quality of food that was supplied to them by the applicant. That apart the service rendered by the staff of the applicant was also very lethargic. The respondent denied the allegations of the applicant that they have not given an opportunity before the blacklisting order has been passed.

7. The respondent would submit that a Committee had been constituted comprising Director Finance and Executive Director (HR), who heard the applicant in the presence of the workmen who had made the complaint and it was only thereafter that the blacklisting order has been passed.

8. The respondent would further submit that since the subsequent contractor has now been appointed, nothing survives for consideration in

the above matter,

9. Heard the counsels.

10. It is seen that the blacklisting order came into effect on 16.10.2017 and the application to stay this order has been filed only on 01.08.2019, nearly two years after the blacklisting order has come into effect. Therefore, the application itself even at the outset is infructuous. That apart, the respondent has also appointed an another contractor who is now rendering service.

11. Considering the fact that the prayer is infructuous, the application is dismissed. No costs.

Sd./-P.T.A.J.  
03.11.2020

//Certified to be true copy//

Dated at Madras this the                      day of                      2020.

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JJ 20/11/2020

COURT OFFICER(O.S.)

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