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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD)No.16954 of 2020

and W.M.P. (MD) No.14179 of 2020

(Through Video Conference)

T.Jeya Raj

... Petitioner

Vs

1) The District Collector,
Kanyakumari District.
Nagercoil.

2) The Assistant Director of Town Panchayat,
Collectorate Office,
Nagercoil, Kanyakumari District.

3) The Executive Officer,
Aralvaimozhi Town Panchayat,
Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of Blacklists of the petitioner in Na.Ka.No.414/2020/A1 dated 22.10.2020 on the file of the third respondent and quash the same and direct the 3rd respondent to allow the petitioner in participating the work contract.

For Petitioner : Mr.A.Rajkumarsen

For RR 1 & 2 : Mr.C.Ramar,
Additional Government Pleader

For R-3 : Mr.K.Sathiya Singh,
Additional Government Pleader

O R D E R

This writ petition has been filed challenging the order dated 22.10.2020 passed by the third respondent, black listing the petitioner.

2. Mr.C.Ramar, learned Additional Government Pleader accepts notice for the respondents 1 and 2 and Mr.K.Sathiya Singh, learned Additional Government Pleader accepts notice for the third respondent. By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

3. It is the case of the petitioner that, he is a Class-I Contractor and he has been doing various Government projects.



According to him, without any notice and without affording any opportunity, the third respondent has passed the impugned order dated 22.10.2020, black listing him, which prevents him from participating in tenders called for by the Government in the near future.

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4. According to him, the impugned order was passed subsequent to an order dated 16.10.2020 passed by the First Bench of this Court in W.P.(MD) No.3480 of 2018 filed by the petitioner for e-bidding, to tackle corruption and transparency in tenders called for by the Government. According to him, the impugned order dated 22.10.2020 has been passed vindictively against him immediately after passing of the order dated 16.10.2020 by the First Bench of this Court in W.P.(MD) No.3480 of 2018. In such circumstances, this writ petition has been filed.

5. Heard Mr.A.Rajkumarsen, learned counsel for the petitioner, Mr.C.Ramar, learned Additional Government Pleader for the respondents 1 and 2 and Mr.K.Sathiya Singh, learned Additional Government Pleader for the third respondent.

6. Admittedly, as seen from the impugned order, no notice has been given to the petitioner by the third respondent prior to the passing of the said order. The petitioner has been blacklisted under the impugned order dated 22.10.2020. It is the case of the petitioner that he is a Class-I Contractor and he has been doing civil work for various Government Authorities ever since 2000. It is also his case that his track record is also good. The black listing order will have serious consequences, as the petitioner will be unable to participate in tenders called for by the Government in the near future. No specific reasons have been given under the impugned order for black listing the petitioner.

7.The learned counsel for the petitioner further submits that the impugned order, dated 22.10.2020 blacklisting the petitioner is perverse in nature and has been passed by violating the principles of natural justice, as no show cause notice or an explanation was called for from the petitioner before passing of the impugned order. The petitioner's right to participate in the tenders in the near future will also be affected in view of the impugned order passed by the third respondent, black listing him, without giving any opportunity to him to put forward his explanation with regard to the allegations of the third respondent about his irregularities. Therefore, this Court is of the considered view that principles of natural justice has been violated by the third respondent while passing the impugned order.

8. For the foregoing reasons, the impugned order dated 22.10.2020 passed by the third respondent is hereby quashed and the matter is remanded back to the third respondent for fresh

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to the petitioner and after getting an explanation from him with regard to the show cause notice shall pass final orders after granting sufficient opportunity to the petitioner and after affording personal hearing to him, within a period of twelve weeks from the date of issuance of a show cause notice by him.

9. With the aforesaid directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected W.M.P.(MD) No.14179 of 2020 is closed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To:

- 1) The District Collector,
Kanyakumari District.
Nagercoil.
- 2) The Assistant Director of Town Panchayat,
Collectorate Office,
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- 3) The Executive Officer,
Aralvaimezhi Town Panchayat,
Kanyakumari District.

+1 CC to M/s.GP (SR-23309 & 23331[F] dated 30/11/2020)

Order made in
W.P. (MD)No.16954 of 2020

Dated:
27.11.2020

(MJ) CO
AP(28/12/2020) 3P 5C