

30.07.2021
Sl. No. 4
sn

W.P.A. No. 4265 of 2020

HASIBUL HAQUE

Vs.

THE STATE OF WEST BENGAL & Ors.

Mr. Manas Kumar Das

...for the Petitioner.

Mr. Ziaul Islam

Mr. A.H. Molla

...for the State.

Let the affidavit of service be taken on record.

On the last occasion, this Court was of the prima facie view that the order of blacklisting of the petitioner for a period of two years by the Block Development Officer, Burwan, Murshidabad dated January 15, 2020 was not in accordance with law and in violation of the principles enshrined under Article 14 and 21 of the Constitution of India.

While cancelling the tender which was not completed by the petitioner within the time allowed by the authority, the Block Development Officer forfeited the earnest money and at the same time without assigning any reasons blacklisted the petitioner for two years. The petitioner was blacklisted from participating in any tender process initiated by the Burwan Block and Burwan Panchayat Samity for a period of two years. The punishment of blacklisting was a double jeopardy as the petitioner had been punished twice for his inability to complete a particular work. He suffered cancellation of the

tender and also forfeiture of the earnest money. Again for the same failure, without a proper opportunity of being heard, the petitioner was blacklisted for two years.

Mr. Islam, very fairly submitted on the last occasion that one and half years had already passed. He would take instructions from the appropriate authority with regard to blacklisting of the petitioner and whether the petitioner may be allowed to participate in future tender processes.

The Block Development Officer has sent a report stating that the work order was cancelled and the earnest money was forfeited and the petitioner was blacklisted because the petitioner had not completed the work within the stipulated period of time and the Notice Inviting Tender had permitted the authority to do so.

Having considered the rival contentions of the parties, this court is of the opinion that the clause relied upon by the Block Development Officer justifying that the competent authority was empowered to cancel the tender and impose such other punitive measures like forfeiture of earnest money 'or' blacklisting, is not acceptable.

In this case, the work order was cancelled and earnest money was forfeited. Thus, further punishment of blacklisting from every other work in future, for a period of two years

without following the procedure established by law, cannot be sustained.

For the aforesaid reasons, the order impugned, insofar as, it relates to blacklisting, the petitioner for two years is set aside.

The remaining part of the order dated January 15, 2020 remains unaltered.

Henceforth, the petitioner shall be at liberty to participate in any work under Burwan Block and Burwan Panchayat Samity, if otherwise eligible.

It is also pertinent to mention that the petitioner has already suffered the consequences of blacklisting for more than one and half years.

This writ petition is thus disposed of.

There will be however no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)