

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.6354/2019

Nitesh Shalikram Khobragade
..Versus..
State of Maharashtra and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri A.A. Naik, Advocate for the petitioner.
Ms N.P. Mehta, A.G.P. for respondent Nos.1 to 3.

**CORAM : DIPANKAR DATTA, C.J. &
A.S. CHANDURKAR, J.
DATE : JULY 23, 2021**

1. The petitioner is a contractor, duly registered with the Public Works Department of the State of Maharashtra. He has been registered as a Class IV-A Contractor. The challenge in this writ petition is to an order dated 20th April, 2019 passed by the respondent no.2 (Assistant Chief Engineer, Public Works Department, Nagpur) cancelling the registration of the petitioner as a Class IV-A Contractor and an order dated 14th May, 2019 passed by the respondent No.3 (Executive Engineer, Public Works Department, Gondia) whereby the petitioner has been blacklisted.

2. Mr. Naik, learned Advocate appearing for the petitioner complains that both these orders were passed by the respective officers in brazen violation of the principles of

natural justice. Not to speak of any hearing, no notice of the intended action was issued to the petitioner.

3. A reply affidavit is on record. The deponent of the affidavit has sought to defend the impugned orders by pleading that there is no provision in law to extend opportunity to the petitioner prior to cancellation of registration as well as issuing an order of blacklisting.

4. Ms Mehta, learned A.G.P appearing for the respondents has, however, fairly submitted that the stand taken in the reply affidavit is contrary to law.

5. Law is well settled that any administrative action involving civil consequences must be preceded by an opportunity to the person proceeded against to put up his say, in compliance with the rule of *audi alteram partem*. Also, no order of blacklisting should be passed without giving an opportunity of show cause to the party to be blacklisted. There is a plethora of decisions on these points but we may only refer to the decisions in **State of Orissa V/s. Dr. (Miss) Binapani Dei and others**, reported in AIR 1967 SC 1269, and **Erusian Equipment & Chemicals Ltd. V/s. State of West Bengal**, reported in AIR 1975 SC 266. Since the impugned orders are in the teeth of the decisions referred to above, we have no hesitation in setting aside the same and we do order accordingly. The concerned officers are granted liberty to proceed against the petitioner in accordance with law, if the necessity therefor arises.

6. Since the registration granted in favour of the petitioner was valid for three years from 19.05.2016 to 18.05.2019, he shall not be entitled to participate in future tenders floated by the Public Works Department; however, if he so desires, he may apply for fresh registration and if such an application is made, the concerned officer shall proceed to decide the same in accordance with law.

7. Accordingly, the writ petition stands disposed of. No costs.

(A.S. CHANDURKAR, J.)

(CHIEF JUSTICE)