

125
15.06.2022
TN

WPA No.9446 of 2022

Md. Jahangir Alam
Vs.
State of West Bengal and others

Mr. Sanjib Kumar Mal
Mrs. Gitasree Dutta

.... for the petitioner

Mr. Srijan Nayak,
Mrs. Rituparna Maitra

.... for the State

Learned counsel for the petitioner contends that the vehicle of the petitioner has been blacklisted, which the petitioner came to know from a publication on the official website mParivahan, without any prior notice or right of hearing having been given to the petitioner. Moreover, in the order recording blacklisting, annexed at page-15 of the writ petition (Annexure-P2), a memo has been mentioned, which was the apparent basis of blacklisting the petitioner. Upon the petitioner approaching the authorities, no copy of the same was also handed over to the petitioner.

It is contended that, thereafter, the petitioner gave a representation through his learned Advocate (Annexure-P3 at page-16 of the writ petition) to the authorities, but to no effect till date.

Learned counsel appearing for the respondent-authorities, in his usual fairness, submits that all relevant particulars ought to have been given to the petitioner. However, it is contended on behalf of the respondents that there were valid grounds for the blacklisting, for which the same ought not to be set aside.

Upon hearing learned counsel for the parties, it is evident that the national permit of the petitioner's vehicle is valid till September 05, 2024, which is evident from the annexure at page-13 of the writ petition.

By virtue of the blacklisting, as appearing at page-15 of the writ petition, the petitioner's business has been directly hampered, thereby adversely affecting the livelihood of the petitioner and/or other persons connected with the transport business carried on by the vehicle-in-question.

It is well-settled that, before taking the severe penal measure of blacklisting, a hearing and/or opportunity of representation ought to be given to the person concerned. In the absence of anything on

record to indicate that any such prior hearing or notice of the blacklisting was given to the petitioner, the extreme measure of blacklisting taken by the respondent-authorities is patently vitiated not only by non-adherence to the doctrine of *audi alteram partem*, which is a basic tenet of natural justice, but also gross violation of equity and law.

Hence, WPA No.9446 of 2022 is allowed, thereby setting aside the blacklisting of the petitioner's vehicle, having Registration No. JH10BV8071, and directing the respondent-authorities to provide the relevant details in respect of such blacklisting as well as a right of hearing to the petitioner and/or the authorised agent of the petitioner prior to passing any such order of blacklisting.

It is made clear that the entire process of hearing the petitioner and fresh decision on the said issue, if taken, shall be concluded as expeditiously as possible, preferably within three weeks from date.

It is further clarified that this court has not gone into the respective contentions of the parties on the merits of whether the petitioner's vehicle is liable to be blacklisted or not and it will be open to the respondent-authorities to decide the same in accordance with law.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)