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15.06.2022
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WPA No.9465 of 2022

Milton Sekh
Vs.
State of West Bengal and others

Mr. Sanjib Kumar Mal,
Mrs. Gitasree Dutta

.... for the petitioner

Mr. Amal Kr. Sen,
Mr. Swapan Kr. Pal

.... for the State

Learned counsel for the petitioner submits that the petitioner's vehicle has been blacklisted, which came to notice of the petitioner from a publication on the official website mParivahan, without any prior notice or opportunity of hearing being given to the petitioner.

It is further contended that the said action of the authorities is without any rhyme or reason, at least insofar as the logic behind the same has not been disclosed to the petitioner.

It is further submitted that the blacklisting order was passed on the basis of a purported memo, no copy of which was supplied to the petitioner.

Learned counsel appearing for the respondent-authorities hands over a copy of a report in connection with the writ petition, authored by the Block Land & Land Reforms Officer (BL&LRO), Murarai-I, Birbhum. It is indicated in the said 'report', which is kept on record, that the impugned blacklisting took place because the driver of the petitioner's vehicle was instructed to stop for checking a valid transit pass/challan against the minor mineral being carried in the vehicle, despite which the driver fled speedily from there.

Consequently, upon a request dated March 28, 2022 vide Memo No.113/BL&LRO/Murarai-I/2022 the matter was placed to the concerned Additional Regional Authority (ARTO), Rampurhat, Birbhum for taking lawful action for locking the said vehicle on the web portal with a view to facilitate the concerned owner of the vehicle to turn up before the competent authority for payment of the appropriate penalty for compounding of the said offences in terms of section 23A of the Act, 1957.

It is submitted that, in view of such specific reason having been given by the BL&LRO for locking the registration number of the vehicle on the website, the impugned order may not be set aside.

However, learned counsel for the respondent-authorities, in his usual fairness, submits that the authorities may be directed to disclose the relevant materials on which such locking was done in respect of the petitioner's vehicle.

Upon hearing learned counsel for the parties and going through the communication handed over in court today, it is not apparent from any of such materials and/or the relevant law that the extreme penal measure of 'blacklisting' is envisaged in any manner within the four corners of the Motor Vehicles Act, 1988.

That apart, such arm-twisting tactics ought better not to be adopted by the government authorities, who have the duty to discharge public functions.

In the present case, the manner in which the vehicle of the petitioner has been blacklisted and such blacklisting uploaded on the relevant website, clearly indicates that the petitioner would not be able to carry on his business as a direct consequence of such blacklisting, without even getting an opportunity to present his version in the matter.

Although it has been submitted by the respondent-authorities that the 'blacklisting'-in-question is actually a mere locking of the vehicle on

the website, whatever the same means, it is clear that the expressions 'blacklisting' and/or 'holiday listing' are generally used for the purpose of denoting extreme measures which would effectively prevent the vehicle from plying on the road or being engaged by any operator.

Thus, the manner in which the blacklisting of the petitioner's vehicle was carried out is strongly deprecated.

Hence, WPA No.9465 of 2022 is allowed, thereby setting aside the blacklisting of the petitioner's vehicle, having Registration No. WB57D5891, appearing as Annexure-P1 at page-11 of the writ petition.

The respondent-authorities shall, if they intend to blacklist the petitioner's vehicle, give a prior notice and opportunity of hearing to the petitioner as well as provide to the petitioner beforehand all relevant documents on which the authorities seek to rely on for the purpose of such blacklisting and only thereafter to decide on the question of blacklisting in accordance with law, if at all.

It is made clear that the merits of the contentions of the parties in respect of the liability of the petitioner's vehicle under any statute and/or for being blacklisted have not been gone into by this court

and it will be open to the respondent-authorities to decide on such question independently in accordance with law.

It is further made clear that nothing in this order shall prevent the respondent-authorities from taking appropriate measures against the petitioner in respect of his concerned vehicle, in the event, in the notion of the respondent-authorities, there has been infraction of any statute on the part of the petitioner's vehicle.

However, a note of caution, is fitting in the context, inasmuch as the authorities ought not to readily publish the details of a particular vehicle as 'blacklisted' without such decision being backed up by prior right of hearing and/or opportunity to reply being given to the owner of the vehicle.

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.)