

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 26071 of 2021

Group No. 5 Security Service

Petitioner

Mr.S.K. Mishra, Advocate

Vs.

State of Odisha and others

Opposite Parties

Mr. P.P. Mohanty, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE SANJAY KUMAR MISHRA

ORDER

18.07.2022

Order No.
08.

This matter is taken up through hybrid mode.

2. Heard Mr. S.K. Mishra, learned Counsel for the Petitioner and Mr. P.P. Mohanty, learned Additional Government Advocate.

3. The Petitioner has filed this Writ Petition challenging the order under Annexures-1 and 2, i.e. dated 27.12.2017 and dated 09.01.2018, by which it has been directed that the agency may be debarred and blacklisted from such service.

4. Mr. S.K. Mishra, learned Counsel for the Petitioner contended that pursuant to such order, the Petitioner has been prejudiced in not being allowed to participate in the bid anywhere. He also referred to the order under Annexure-4 dated 22.06.2021, wherein it has been stated that the petitioner has been blacklisted as per the memo dated 18.05.2021 by the Principal Chief Conservator of Forests (KL), Aranya Bhawan, Bhubaneswar. He also referred to the letter dated 18.05.2021 under Annexure-5, where Group No. 5 Security Service has been shown to be blacklisted. As a result of which, the petitioner

could not be able to participate in the tender.

5. Mr. P.P. Mohanty, learned Additional Government Advocate contended that till date, no such blacklisting order has been passed against the Petitioner. Therefore, the Petitioner cannot be debarred to participate in the tender process, unless any penal action is taken against him to participate in the tender process.

6. Having heard learned Counsel for the parties and after going through the record, it appears that the Petitioner has approached this Court by filing the present Writ Petition, against the so called “may be blacklisting” order dated 09.01.2018 under Annexure-2. But the order dated 22.06.2021 under Annexure-4 shows that the Petitioner’s agency has been blacklisted vide order dated 18.05.2021, which is also annexed under Annexure-5. The contention of Mr. P.P. Mohanty, referring to the Counter Affidavit that though the Petitioner’s agency has been shown to be blacklisted, but in fact no blacklisting order has been passed till to date. He referred to paragraph-7 of the Counter Affidavit, wherein, it has been stated as follows:-

“That, it is stated that the said proposal has not been acted upon by the Department of Health & Family Welfare, Odisha and there is no finality to the blacklisting proposal submitted by the Collector, Sambalpur. Therefore, insofar as the blacklisting concerned, the Petitioner has not been blacklisted yet by the Collector, Sambalpur or by the CDMO, Sambalpur. It is stated that no further blacklisting proceeding will be initiated against the Petitioner arising out of the termination of the contract executed on 27.12.2017.”

7. In view of the statement made in Paragraph-7 of the Counter Affidavit, duly sworn in by the Competent Authority, since there is no blacklisting order, it is open to the Petitioner to participate in the

tender invited by the authority, as he has not been visited with the penal action of blacklisting.

8. With the above observation/direction, the Writ Petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Arun/Banita

(S.K. MISHRA)
JUDGE

