



W.P(MD).No.5527 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.5527 of 2022

and

W.M.P(MD).Nos.4472 and 4474 of 2022

Kannan

... Petitioner

Vs.

1.The Principal Chief Conservator of Forest,
Panagal Maligai,
Chennai-600 015.

2.The Conservator of Forest,
Madurai Division,
Madurai.

3.The District Forest Officer,
Madurai Division,
Madurai.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in pertaining to block listing the name of the petitioner in contract list panel vide his proceedings of the third respondent in Se.Mu.Aa.No.Va/7206/2019, dated 06.08.2021 and quash the same as illegal and consequently direct the third respondent to return the security deposit amount in respect of the petitioner's cancellation of work order.



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For Petitioner : Mr.K.Arunraj
For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

The petitioner is a registered contractor in forest Department was block listed and removed by the impugned order issued by the second respondent in செ.மு.ஆ.எண்.வ/7206/2019, dated 06.08.2021. The petitioner, in the year 2019-2020 awarded contract work in Elumalai forest in Usilampatti region to construct the cement block work No.15 and varakkal cement block works. After completing the said work, the petitioner received the final bill, in which the third respondent reduced the price ratio in the tender for the construction of the cement block without giving him any prior notice. He further submits that during construction work, due to Covid-19 pandemic, there was total lock down and the work got stopped since there was no transportation of men and material. Further, after relaxation of the lock down, the third respondent not permitted the petitioner to work in the spot. Thereafter, the petitioner approached the third respondent to give his explanation for the delay but the third respondent refused to hear the petitioner's difficulties.

2. The second respondent visited the spot and found that the work incomplete and the raw materials available in the work spot directed the work



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to be completed under the supervision of forest guard, the petitioner completed the work. The bill for the work was released six months after the completion of work. In this period, the petitioner raised objections for the delay in payment and had some heated moments. For this reason, the petitioner victimised and the third respondent passed the impugned order block listing him. The grievance of the petitioner is that in this case no show cause notice issued and the petitioner not given opportunity to make his objections. Hence, the order is in gross violation of principles of natural justice and prayed for quashing of the impugned order.

3. The learned Additional Government Pleader for the respondents submits that the petitioner was awarded a contract work for constructing break wall in the stream in the reserved forest area in Elumalai forest. The petitioner was awarded contract to the value of Rs.3,98,884/-. The order was passed on 10.10.2019, with the condition that the construction to be completed within a period of 12 days i.e., on or before 22.10.2019. The petitioner not completed the work within time, despite several reminders, no response from the petitioner. Thereafter, citing Rule 14 of the tender Rules, petitioner advised to complete the work within stipulated period failing which, following the Rules and Regulations of the tender Rules, the petitioner will be removed and block listed, notice issued. The petitioner received the



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notice on 25.05.2021 and till 06.08.2021, the petitioner not replied. Due to the petitioner's failure in completing the work within the stipulated period, the forest range officer as well as the District forest officer suffered, shortfalls in completing the allotted work, correspondingly, the amount allotted could not be utilised within time. The Covid-19 lock down started from March 2020 but the petitioner was allotted to work from the period 10.10.2019 to 22.10.2019 before the lock down. By giving proper notice, following the procedure and thereafter only, the petitioner was block listed. If the petitioner is aggrieved on the orders of the second respondent, the petitioner can file an appeal before the third respondent. The petitioner already made an appeal before the second respondent on 25.08.2021 yet to be considered, by giving opportunity to the petitioner and after hearing the petitioner, appropriate orders can be passed within stipulated time.

4. The learned Additional Government Pleader for the third respondent filed affidavit referring to Rule 7(5), Section 130 (C) of Forest Department Code, submitted writ petition filed before this Court against the order of the third respondent not maintainable. The contractor ought to have filed appeal before the next higher officer (Like., Conservator of Forests/Chief Conservator of Forests/Additional Principal Chief Conservator of Forests against his suspension (Removal of Contractor and Block listing) and



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cancellations of work orders. He filed present writ petition against the District Forest Officer, Madurai without availing alternate remedy before the appellate authority.

5. He further submitted that ground (b) specifically denied, since the show cause notice issued by the third respondent vide proceedings Na.Ka.No.D/7206/2019, dated 30.07.2021 was directly served to the petitioner and the same was duly acknowledged by him. Earlier show cause notice, dated 25.05.2021 issued by the petitioner through RPAD that too duly served. Thus, it is very clear that show cause notice was properly served to the petitioner. Therefore, there is no violation of principle of natural justice.

6. Considering the same and on perusal of the material, it is seen that the petitioner already sent an appeal to the second respondent by post on 25.08.2021. The postal copy is not available in the type set. In view of the same, the petitioner is directed to submit the copy of the appeal with proper acknowledgment to the second respondent within a period of two weeks from the date of receipt of copy of this order. The second respondent is directed to give personal hearing to the petitioner, conduct an enquiry and complete the enquiry within a period of two months thereafter. This two months period is only an outer limit.



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7. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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To

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M.NIRMAL KUMAR, J.

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