

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8609 of 2023

M/s Om Surgical Industries a Partnership firm, having its Office at 7.7. KM Stone, Village and Po Titolo, Jhind Road, Rohtak, 124001 Haryana, through its Partner Ajay Goyal, aged about 52 Years (Male), Son of Tilak Raj Goyal, Resident of House No. 227 F, Near Medical Mor, Medel Town P.S. Rohtak City, District Rohtak, Haryana 124001

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secreary, Department of Health, Government of Bihar, 1st Floor Vikas Bhawan, Bailey Road, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, 1st Floor Vikas Bhawan, Bailey Road, Patna.
3. Bihar Medical Service and Infrastructure Corporation Limited, Through its Managing Director, 4th Floor, State Building Construction Corporation Limited, Hospital Road, Shastri Nagar, Patna 800023.
4. The Managing Director, Bihar Medical Service and Infrastructure Corporation Limited, 4th Floor, State Building Construction Corporation Limited, Hospital Road, Shastri Nagar, Patna 800023.
5. The Chief General Manager (Supply Chain), Bihar Medical Service and Infrastructure Corporation Limited, 4th Floor, State Building Construction Corporation Limited, Hospital Road, Shastri Nagar, Patna 800023.
6. The General Manager (Procurement), Bihar Medical Service and Infrastructure Corporation Limited, 4th Floor, State Building Construction Corporation Limited, Hospital Road, Shastri Nagar, Patna 800023.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate Mr. Avinash Shekhar, Advocate
For the Respondent/s	:	Mr. Vikas Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 23-06-2023

The instant petition has been filed for following reliefs:

*i) To issue an appropriate writ, order or
direction in the nature of Certiorari for quashing*



memo bearing no. BMSIC/40030/34-2023/10100 dated 21.03.2023 (Annexure-13) issued by the Respondent Managing Director whereby and whereunder the Petitioner has been black-listed for absorbent cotton IP 500 gm for a period of two years and the Security Deposit of has been forfeited.

ii) Consequent to grant of relief no (I), the petitioner prays for issuance of a writ in the nature of mandamus directing the Respondents to remove the order of blacklisting from their official website i.e. <http://bmsicl.gov.in>

iii) This Hon'ble Court may adjudicate and hold that an order of blacklisting, which entails grave civil consequence, cannot be passed without issuing a specific show-cause in this regard.

iv) This Hon'ble Court may further adjudicate and hold that the impugned order of blacklisting is violative of the principles of nature justice inasmuch as the show-cause reply of the petitioner has not been considered.

v) This Hon'ble Court may adjudicate and hold that the Respondents were duty bound to consider the show-cause reply submitted by the petitioner.

vi) This Hon'ble Court may further adjudicate and hold that the impugned order of blacklisting has been passed in a mechanical manner without application of mind.



Vii) This Hon'ble Court may further adjudicate and hold that the action of the Respondent Authorities, in blacklisting the petitioner for absorbent cotton IP 500 gm for a period of two years is complete arbitrary exercise of authority / power.

Viii) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.”

The petitioner has been black-listed for two years and further forfeiture of security deposit. The petitioner was served with three notices on 03.02.2023; 17.02.2023; and 15.03.2023 for which the petitioner has submitted his reply on 13.02.2023; 25.02.2023 and 28.03.2023, whereas in the impugned order dated 21.03.2023 there is no reference to all the show-cause notices and reply of the petitioner. In other words, the present impugned order dated 21.03.2023 is bereft of reasons in not considering the petitioner's reply to the respective show-cause notices said supra. The overall view is that the present impugned order is a non-speaking order. Therefore, the petitioner has made out a case.

2. Accordingly, Annexure - 13 stands set aside.

3. Writ petition is allowed, reserving liberty to the Managing Director to pass a fresh order after due consideration of all the three show-cause notices and reply of the petitioner and proceed to pass speaking order after due consideration of each of the contention stated by the petitioner in his reply and communicate the decision. The above exercise shall be



completed within a period of three months from the date of receipt of a copy of this order.

4. The petitioner is also at liberty to file additional material or reply, if any, within a period of one week from today.

5. The Managing Director is hereby directed to take note of the additional material information or statement of facts which would filed, if any by the petitioner.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

skm/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	26.06.2023
Transmission Date	

