

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8189 of 2023

M/S Gunja Kumari, Through its proprietor Smt. Gunja Kumari, female, aged about 39 years, wife of Shri Mukesh Kumar, Khata No. 67, Khesra No. 1708 and 1719, Sherpur, Muzaffarpur, District - Muzaffarpur, PIN - 842002.

... .. Petitioner/s

Versus

1. The Metal Scrap Trade Corporation Limited Through its Chief Managing Director, Plot no.CF-18/2, Street No.175, Action Area IC, New Town, Kolkata - 700156.
2. The Additional General Manager, E-Commerce, Metal Scrap Trade Corporation Limited, Plot no. CF-18/2, Street No.175, Action Area IC, New Town, Kolkata - 700156.
3. The Manager, (ERO) Metal Scrap Trade Corporation Limited, Plot no.CF-18/2, Street No.175, Action Area IC, New Town, Kolkata - 700156.
4. The Additional General Manager, Metal Scrap Trade Corporation Limited, Patna Branch Office, 3rd Floor, DCM cum MRT Building SBPDCL, Road No-01, D P Rai Path, Near R Block, Patna, Bihar, PIN-800001.
5. The Deputy Manager, Patna Branch Office, Metal Scrap Trade Corporation Limited, 3rd Floor, DCM cum MRT Building SBPDCL, Road No-01, D P Rai Path, Near R Block, Patna, Bihar, PIN-800001.
6. The North Bihar Power Distribution Company Ltd. Through its Managing Director, Third Floor, Vidyut Bhawan, Bailey Road, Patna 800001.
7. The Chief Engineer (S and P), North Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna 800001.
8. The Sr Manager F and A, North Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna 800001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Navendu Kumar, Advocate
For the State	:	Mr. Vinay Kirti Singh, Sr. Advocate
		Mr. Vijay Kumar Verma, Advocate
		Mr. Akhileshwar Singh, AdvocateRe
For the BSPHCL	:	Mr. Kumar Priya Ranjan, Additional SC
		Mr. Girish Nandan Abhishek, Advocate
		Ms. Nirmala Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)



Date : 06-11-2023

In the present petition, the petitioner has prayed for the following reliefs:-

“i) For declaration of the action of respondents in not allowing the petitioner to participate in the auction conducted by Metal Scrap Trade Corporation Limited having no. MSTC/ERO/NORTH BIHAR POWER DISTRIBUTION COMPANY LIMITED/1/PATNA/23-24/2889 dated 10.05.2023 on the alleged ground of blacklisting/debarment which has never been communicated to the petitioner, as illegal, arbitrary, unconstitutional and against the principles of natural justice, and consequently to set aside the aforesaid auction dated 10.05.2023;

ii) For declaration of the alleged blacklisting/debarment order as mentioned in the email dated 17.05.2023, which is never been communicated or even informed orally, as illegal, unconstitutional and against the terms of the NIT, and consequently to set aside the same;

iii) For directing the respondent Nos. 1 to 5 to consider the petitioner as qualified and permit the petitioner to participate in the e-auction and direct these respondents to conduct a fresh e-auction;

iv) For issuance of such other writ(s)/ order(s)/ direction(s) as your Lordships may deem fit and proper.”

2. Prayer no. 1 has become infructuous in view of the fact that this Court has not granted any interim order permitting



the petitioner to participate and the concerned authority respondents to entertain the petitioner's grievance in the auction, subject to the result of the present petition, in the absence of the aforementioned order or a direction of this Court the first prayer has become infructuous.

3. Prayer no. 2 is concerned, it is stated that petitioner was blacklisted in the year 2019 and the same has not been communicated to the petitioner. The same has been taken note of for the purpose of not entertaining the petitioner's participation in the auction bid on 10.05.2023. In this regard, it is submitted that blacklisting in the year 2019 has already spent its force, even though it was not communicated. The same cannot be examined at this belated stage for the reasons that auction was already over on 10.05.2023.

4. Prayer no. 3 is concerned, it is for the authorities to examine whether petitioner is eligible to participate in future e-auction. Further, if the auction dated 10.05.2023 has not attained finality in that event, it is for the authorities to proceed in accordance with law either in e-auction or not to undertake auction. In other words it is the policy decision of the respondents. Therefore, the petitioner is not entitled to the relief in so far the prayer no. 3 is concerned.



5. Accordingly, the present writ petition stands disposed of as it has become infructuous. However, disposal of the present petition would not be a hurdle for the petitioner to approach the concerned authority in so far as re-auctioning or the subject matter of Metal Scrap materials in the auction or not to be auctioned. If such a representation/application is filed the concerned authority has to pass a detailed speaking order and communicate the same at the earliest.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

Anand Kr./ Brajesh Kr.

AFR/NAFR	
CAV DATE	
Uploading Date	08.11.2023
Transmission Date	

