

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8433 of 2023

M/s. Stock Holding Corporation of India Limited A Government Company, registered under the Indian Companies Act, 1956 having its Registered Office at 301, Centre Point, Dr. Babasaheb Ambedkar Road, Parel, P.S. Bhoiwada, Mumbai (Maharashtra) and having its Regional Office at Room Nos. 301-305, 3rd Floor, Ashiana Plaza, Budh Marg, P.S. Kotwali, Town and District Patna through its Divisional Manager, Ravi Ranjan, Male, Aged about 56 Years, Son of Sri B. K. Prasad, Resident of 305, Winona, Hiranandani Estate, Ghodbunder Road, Patli Pada, Thane, Chitalsar Manpada, P.S. Kasarwadawali, District Mumbai, (Maharashtra), presently residing at 201, Vishaka Residency, Ved Nagar, Rukanpura, P.S. Rupaspur, Town and District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Additional Chief Secretary, Department of Prohibition, Excise and Registration Government of Bihar, Vikash Bhavan, Patna
2. The Additional Chief Secretary, Department of Prohibition, Excise and Registration, Government of Bihar, Vikash Bhavan, Patna.
3. The Inspector General (Registration), Department of Prohibition, Excise and Registration, Government of Bihar, Patna.
4. The Assistant Inspector General (Registration), Department of Prohibition, Excise and Registration, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. S. D. Sanjay, Sr. Advocate Mr. Mohit Agarwal, Advocate Mr. Anand Kumar, Advocate Mr. Rahul Kumar, Advocate
For the Respondent/s	:	Mr. Akash Chaturvedi, Advocate AC to SC-11

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

Date : 21-07-2023

1. In the instant petition, petitioner has prayed for
the following reliefs :



“ (i) For quashing of the Office Memorandum dated 07.06.2023 issued under the signature of the Respondent A.L.G. (Registration), Department of Prohibition, Excise & Registration, Government of Bihar issued vide Letter No. 3896 dated 07.06.2023 whereby the Petitioner has been black-listed/ debarred for a period of one year from the date of issue of this order without issuance of any show cause notice proposing black listing of the Petitioner and even without providing any opportunity of personal hearing to the Petitioner,

(ii) For direction upon the Respondents to pay the outstanding dues of commission of the Petitioner Company with interest which has been withheld without any reason causing financial hardship to the Petitioner.

(iii) For direction upon the Respondent Department to get the issue of alleged delay in remission of collected revenue in the government account as indicated by an Independent Agency or Authority by providing the details of alleged days and amount of delay and opportunity of hearing to the Petitioner,

(iv) For holding that the issuance of impugned Office Memorandum dated 07.06.2023 is per se in violation of



principles of natural justice as no show cause notice proposing punishment of black listing against the Petitioner was ever issued to the Petitioner, and/or for any other relief(s) for which the Petitioner may be found entitled to in the facts and circumstances of the present case.”

2. Learned counsel for the petitioner submitted that the impugned decision to blacklist the petitioner for a period of one year is not supported by specific notice of blacklisting the petitioner for a period of one year and it is warranted in the light of judicial pronouncement in the case of ***UMC Technologies Private Limited Vs. Food Corporation of India & Anr. [(2021) 2 Supreme Court Cases 551] (Paragraph 20).***

3. It is further submitted that the impugned action is by an incompetent authority in the light clause 4 of the agreement at Annexure 1. The competent authority is Chief Comptroller Authority whereas the order has been passed by the Assistant Inspector General (Registration), Department of Prohibition, Excise and Registration, Patna, Bihar.

4. Per contra, learned counsel for the Respondent, vehemently resisted the aforementioned contentions of the petitioner and submitted that time to time show cause notice has been issued and thereafter, impugned



action of blacklisting has been ordered. It is further submitted that senior authority has directed the AIG to proceed with blacklisting the petitioner. Therefore, the contention of the petitioner that the Chief Comptroller Authority is the competent authority is not tenable, Senior Authority may be the Chief Comptroller Authority.

5. Heard learned counsel for the respective parties. Undisputed facts are that the petitioner has been blacklisted for one year without proper or specific notice in the light of judicial pronouncement in the case of UMC Technology (supra). The contention of the Respondent that they had issued number notices cannot be taken note of for the purpose of blacklisting, for the reasons that none of the show cause notice reveals that specific notice to the extent that why the petitioner shall be blacklisted for a period of one year with reference to the alleged allegations which warranted for blacklisting the petitioner. On the other hand those notices are relating to execution of works.

6. The AIG is not the competent authority as is evident from Para-16 of the counter affidavit. Para 16 of the counter affidavit reads as under :

“ That is humbly submitted that the Assistant Inspector General (Registration) Department of



Prohibition, Excise and Registration, Bihar, Patna has passed the aforesaid order – 3896, dated 07.06.2023 after Consultation / Direction from the Senior Authority. Thus, the said order is justified in the eyes of law”

7. Reading of Para 16, it is evident that AIG had been authorized by the senior authority to proceed with blacklisting the petitioner. Senior authority's designation is not forthcoming. Assuming that he is a Chief Comptroller authority, even in such circumstances, Chief Controlling Authority was required to apprise this Court as to whether has he been given sub-delegation power so as to ask the AIG to proceed with the blacklisting order.

8. On this count, the petitioner has made out a case. Accordingly, the writ petition is allowed. Annexure-14, bearing Letter No. 3896, dated 07.06.2023 stands set aside, reserving liberty to the competent authority to proceed in accordance with law. The competent authority is hereby directed to take note of judicial pronouncement before finalizing the subject matter. The above exercise shall be completed within a period of three months.

9. Learned senior counsel, Mr. S. D. Sanjay submitted that the present case is not warranted for giving liberty to the concerned respondent. The same is hereby rejected



for the reasons that the impugned communication or blacklisting
the petitioner has been set aside only on technicalities.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

skm/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.07.2023
Transmission Date	NA

