

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13694 of 2019

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CSM Technologies Private Limited erstwhile M/s Cybertech Software and Multimedia Pvt. Ltd. a company incorporated under the provisions of the Indian Companies Act, 1956 having its registered office at N3/312, Nayapalli, Bhubaneswar, Odisha and Bihar Office at Level-1, STPI Building, Rajeev Nagar Road, Patliputra Colony, Patna- 13 erstwhile at A1, Software Technology Park, 13th Floor, Biscomaun through its Managing Director, namely, Priyadarshi Pany, resident of N3/312, Nayapalli, Bhuneshwar, Odisha.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Transport Department, Government of Bihar.
2. The Secretary, Transport Department, Government of Bihar, Government of Bihar.
3. The Bihar State Road Transport Corporation through the Administrator, Pariwahan Bhawan, BirChand Patel Path, Patna- 800001.
4. The Administrator, The Bihar State Road Transport Corporation, Pariwahan Bhawan, BirChand Patel Patna- 800001.
5. The Chief of Administration, The Bihar State Road Transport Corporation, Pariwahan Bhawan, BirChand Patel Path, Patna- 800001.
6. The Chief Account Officer cum Chief of Operation, The Bihar State Road Transport Corporation Pariwahan Bhawan, BirChand Patel Path, Patna- 800001.
7. The Chief Mechanical Engineer cum Controller, Purchase and Store, The Bihar State Road Transport Corporation Pariwahan Bhawan, BirChand Patel Path, Patna- 800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amit Kumar Jha, Advocate Mr. P.K. Verma, Advocate
For the Respondent/s	:	Mr. Manoj Kumar, AC to GP-24
For BSRTC	:	Mr. Suman Kumar Jha, Advocate
For Intervenor	:	Mr. Saroj Kumar Sharma, Advocate

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

Date : 17-03-2023

Re: I.A. No. 2 of 2019



Heard I.A. No. 2 of 2019 after arguing some time, learned counsel for intervenor petitioner seeks permission to withdraw I.A. No. 2 of 2019.

Accordingly, I.A. No. 2 of 2019, stands dismissed as withdrawn.

In the instant petition, petitioner has prayed for the following relief(s):-

“For issuance of order, direction or writ of Certiorari or any other appropriate writ for quashing/ setting aside the order dated 25.06.2019 contained in letter no. 2124 issued under the signature of respondent no. 5 The Chief of Administration, The Bihar State Road Transport Corporation whereby and where under the petitioner company has been blacklisted forever.

And during the pendency the of the present writ the operation of order dated 25.06.2019 contained in letter no. 2124 issued under the respondent no. 4, The Chief of Administration, The Bihar State Road Transport Corporation may be stayed.

ii. For issuance of order, direction or writ of Mandamus or any other appropriate writ for directing the respondents to release the remaining payment amounting to Rs. 47,61,123 for the work done by the petitioner company.

iii. For any other orders or direction which your Lordship may deem fit in the interest of equity, justice and good conscience.”

The concerned respondent floated tender for Back



Office Automation and Web Portal Development for Bihar State Road Transport Corporation (for short “BSRTC”). The work order was issued in favour of petitioner on 03.03.2014, thereafter, formalities have been completed for execution of the work. The petitioner could not execute the work within the time limit stipulated, thereafter, at the request of the petitioner, time was extended from 01.04.2017 to 31.03.2019. Even thereafter, the petitioner could not complete the allotted work within the extended period of time. In the result, the concerned respondent issued show cause notice relating to blacklisting. The petitioner has filed a detailed reply to the two show cause notices (Annexure - P18 dated 25.04.2019). However, the concerned authority after taking note of the facts of the case read with the show cause notices and replies on behalf of the petitioner, proceeded to pass orders for blacklisting the petitioner forever on 25.06.2019, hence, the present petition.

From perusal of reply to the show cause notice and impugned order of blacklisting forever, it is evident that there is no consideration of each of the contentions raised by the petitioner against show cause notices. The concerned authority has merely reiterated the contents of the show cause notices and has not analyzed each of the contentions stated in the reply to



the show cause notices. Therefore, *prima facie* it is a non-speaking order. The concerned authority has resorted to only formality of issuing show cause notices and obtaining explanation and thereafter, proceeded to pass order for blacklisting forever.

Apex Court in the case of ***Kranti Associates (P) Ltd. and Another V. Masood Ahmed Khan & Ors.*** reported in ***(2010) 9 SSC 496*** in para 47 it is held as under:-

“47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision - maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by



administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision - making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reason or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of



Judicial Candor).

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain EHRR, at 562 para 29 and Anya v. University of Oxford, wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, “adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.”

In the present case, impugned action of the respondent in blacklisting forever, is a subject to judicial review. If an authority passes any order and if it is amenable to judicial review, in such an event, such decision of the authority must be speaking order. In the present case, the concerned authority has already resorted to issuing two show cause notices and he is in receipt of reply from the petitioner. However, without referring to each of the contentions of the petitioner’s reply proceeded to reject while punishing the petitioner in the form of blacklisting forever.

In the light of these facts and circumstances, the



petitioner has made out a case so as to interfere with the impugned order dated 25.06.2019 *vide* Annexure - P24, accordingly, it is set aside, reserving liberty to concerned authority to pass afresh order after considering each of the contentions stated in the reply to the show cause notices (Annexure P-18 dated 25.04.2019) and proceed to pass afresh order. In the meanwhile, petitioner is at liberty to furnish additional material information insofar as quantum of blacklisting order. Imposition of blacklisting forever would be too harsh. Apex Court in the case of *M/s Chauhan Builders Raibareli vs. The State of Uttar Pradesh and Ors. vide Special Leave to Appeal (C) No. 32840/2018 decided on 16.08.2022* held that blacklisting forever is deprecated. The concerned authority is hereby directed to take note of the principle laid down by Apex Court while passing afresh order shall be passed within a period of four months from the date of receipt of this order.

Accordingly, present writ petition stands allowed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

shoaib/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.03.2023.
Transmission Date	NA

