

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20130 of 2021

M/S ICN (INDIA) Pvt. Ltd. WZ- 1390/7, First Floor, Pankha Road, Nagal Rai, New Delhi through its Director namely Navin Kishore, S/oRamkishore Singh, resident of Flat No. C-602, Manglik Apartments, Plot No. 25, Dwarka, Sec-6, South West Delhi, P.S. - Dwarka, Delhi - 110075.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chairman, Central Selection Board (Constable Recruitment), Bihar, Patna.
3. The Officer on Special Duty, Central Selection Board (Constable Recruitment), Bihar, Patna.
4. The Registrar of Companies, NCT of Delhi and Haryana.
5. Senior Superintendent of Police, Patna, Bihar.
6. Superintendent of Police, Patna Central, Bihar.
7. Deputy Superintendent of Police, Patna, Bihar.
8. Police Inspector - cum- Station Head Officer, Shastri Nagar, Patna.
9. Mr. Arun Kumar, Ex. Manager/ Ex. Director, M/s ICN (INDIA) Pvt. Ltd.
10. Mr. Sunil Kumar Dhawan, Ex. Director, M/s ICN (INDIA) Pvt. Ltd.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Advocate Mr. Amarjeet, Advocate Mr. Shivam Kumar, Advocate
For the State	:	Mr. Manish Kumar, GP-4
For CSBC	:	Mr. P. N. Shahi, Sr. Advocate Mr. Sanjay Pandey, Advocate Mr. Binod Kumar Mishra, Advocate Mr. Vivek Anand Amritesh, Advocate

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

Date : 11-07-2023

Instant petition has been filed for following reliefs:

(i) For issuance of writ in the nature of the certiorari for quashing of the order dated 18.10.2021 contained in letter no. 986 issued under the signature of the Chairman, Central Selection Board (Constable Recruitment), Bihar,



Patna (for short “CSBC”) in pursuance of order dated 07.09.2021 passed in C.W.J.C. No. 7279 of 2021, whereby and whereunder

(ii) the Chairman of Central Selection Board (Constable Recruitment) Bihar, Patna, has illegally and arbitrarily issued the order impugned, wherein three years of black-listing period has erroneously been fixed from the date of depositing the all remaining so called defalcated amount i.e. Rs. 7,04,39,674/- with the C.S.B.C. although it is admitted that the alleged defalcation or misappropriation of aforesaid amount has been done by private respondent nos. 9 and 10 against whom this petitioner company had also lodged criminal case before the Economic Offence wing.

(iii) For staying the operation of impugned order dated 18.10.2021 issued under the signature of the Chairman, Central Selection Board (Constable Recruitment), Bihar, Patna, during the pendency of this writ application.

(iv) For issuance of writ in the nature of mandamus or any other writ for directing the respondent authorities to call for the records and conduct a fair and impartial enquiry by the Independent Enquiry Agency for breaching the agreement dated 10.09.2018 by the private respondent namely Mr. Arun Kumar and his associates in connivance with the Officials of the CSBC.

(v) For issuance of any other order or orders, which Your Lordships may deem fit and proper in the facts and circumstances of the case for which this petitioner is entitled to.”



2. Present petition seems to be third round litigation in respect of black-listing the petitioner. The petitioner was black-listed for an indefinite period on 10.09.2020 and thereafter once again he was black-listed on 04.08.2021 for an indefinite period which was subject matter of litigation in C.W.J.C. No. 7279 of 2021 and it was decided on 07.09.2021. Paragraph 13 of the said order reads as under:

“13. Considering the admitted facts and circumstances of the case, as noted above, in my opinion, the impugned order of black-listing passed by the Board does not require interference. However, following the decision rendered in the case of Kulja Industries Limited case (supra) wherein it has been specifically laid down that the order of blacklisting cannot be indefinite, the matter is remanded back to the Chairman of the Board to determine the period for which the order of blacklisting should operate.”

3. In the light of the afore-mentioned order, the concerned respondents should have resorted to issuance of specific notice insofar as black-listing for a specific period like in the present case.

4. On the other hand, without there being a specific notice of black-listing for a particular period proceeded to pass order on 18.10.2021 in black-listing the petitioner for a period of three years.



5. The object or intent of the concerned respondent has already served in the light of the fact that the petitioner has suffered black-listing order from time to time i.e., with effect from 10.09.2020. In other words, he would be completing black-listing three years on 09.09.2023, if the date of initial black-listing him for indefinite period is 10.09.2020.

6. Be that as it may, time and again Courts have held that insofar as black-listing a person or a firm would affect seriously his civil right, therefore, specific notice was required to be given by the concerned person who is going to black-list a person or a firm.

7. In this regard, it is necessary to take note of the decision of Hon'ble Apex Court in the case of *Isolators and Isolators Vr. Madhya Pradesh Madhya Kshetra Vidyut Vitran Co. Ltd. & Anr. [2023 SCC OnLine SC 444] (Paragraph 13 and 14) and UMC Technologies Private Limited Vs. Food Corporation of India & Anr. [(2021) 2 Supreme Court Cases 551] (Paragraph 20).*

8. Perusal of the afore-mentioned judicial pronouncements, one of the requirement is that specific black-listing notice is required to be issued by the competent authority to a person / firm.

9. In the present case, there is no specific notice relating to black-listing the petitioner for a period of three years and thereafter proceed to pass final order black-listing the petitioner.



10. On this short ground, the petitioner has made out a case.

11. Accordingly, the petition stands allowed, reserving liberty to the concerned respondent to proceed to pass a specific notice of black-listing. On receipt of petitioner’s explanation, the competent authority is hereby directed to take sympathetic view and proceed to drop the proceedings in the light of the fact that the petitioner has already suffered black-listing from 10.09.2020 till date and if the intent of the respondent is taken in consideration that the petitioner is required to be black-listed for three years in that event such three years period would be completing on 09.09.2023. To this extent, the concerned respondent is hereby directed to pass specific order and communicate the same to the petitioner within a period of two months from the date of receipt of a copy of this order.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

skm/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	14.07.2023
Transmission Date	

