

OD-5

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/742/2023

PRANAB BOSE
VS
UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 13th June, 2023

Appearance
Mr. Jishnu Chowdhury, Adv.
Mr. Arif Ali, Adv.
Mr. Sarban Bhattacharya, Adv.
Mr. Abhidipto Tarafder, Adv.
...for the petitioner

Ms. Oisani Mukherjee, Adv.
..for the respondent no. 1

Mr. Anup Kanti Podder, Adv.
Mr. Kamran Alam, Adv.
...for the respondent nos. 2 to 7

The Court:- The petitioner's challenge is limited. By virtue of the impugned communication dated March 14, 2023, the respondent authorities virtually blacklisted the petitioner by debarring the petitioner from participating in future tenders for any work of the Airport Authority of India (AAI) in any name and style for a period of one year with effect from the date of the issue of the said order.

It is noteworthy that the petitioner has its office in Kolkata, which is within the territorial jurisdiction of this Court.

It is contended on behalf of the petitioner that no hearing worth the name was given to the petitioner prior to the impugned decision being taken, which is the very antithesis of the principle of natural justice, *Audi Alteram Partem*.

Learned counsel appearing for the petitioner also cites an unreported Division Bench judgment of this Court rendered in *Eldyne Electro Systems Pvt. Ltd. & Anr. Vs. Union of India & Ors.* where, in a similar matter, the Division Bench was pleased, *inter alia*, to observe that the petitioner had alleged that the impugned order of temporary delisting, affecting its legal right and having an adverse effect on its business, was served to it at its registered office in Kolkata and as such a part of the cause of action had arisen within the limits of this Court, where the order of delisting had taken effect.

The learned Division Bench had gone on to consider several judgments and ultimately came to the conclusion that this Court accordingly had jurisdiction to take up the matter.

Learned counsel appearing for the petitioner further contends that, within the contemplation of Article 226(2) of the Constitution of India, with regard to territorial jurisdiction, every High Court in the country has jurisdiction to look into any irregularity or illegality committed within any part of India, even if the same is beyond the territorial jurisdiction of the particular High Court.

Learned counsel appearing for the respondent authorities takes a preliminary objection as to maintainability and cites a judgment of the Hon'ble Supreme Court reported at *MANU/SC/1290/2007 (Alchemist Limited and Ors. Vs. State Bank of Sikkim and Ors.)*

In the said judgment, the Supreme Court had, *inter alia*, gone on to hold that facts, which had no bearing on the *lis* or dispute involved with the case, do not give rise to the cause of action so as to confer territorial jurisdiction on the Court concerned. In the said case, none of the respondents was stationed within

the State of Gujarat, for which it was held that the said High Court did not have territorial jurisdiction.

It is further submitted that a show cause notice was issued to the petitioner in the present case.

A bare perusal of the impugned communication dated March 14, 2023, however, indicates that the same does not reflect any consideration whatsoever regarding any objection that the petitioner might have to the decision to blacklist the petitioner for one year. Be it for a single year or even for a day, an order of blacklisting not only casts a stigma but also affects the goodwill of the particular concern adversely.

It is relevant to mention that *Alchemist Limited (Supra)*, cited by the respondents, was also considered by the Division Bench cited by the petitioner.

Hence, this Court is bound by the judgment of the Division Bench of the same court, which also took into consideration and interpreted the judgment of the Supreme Court cited by the respondents.

That apart, even logically, *Alchemist Limited (Supra)* was considering a case where the challenge was primarily against the disapproval of the proposal submitted by the appellant company therein, which was tantamount to a refusal to enter into a contract/rescinding a contract. The premise of such a challenge is very limited when compared to the present one, the latter being on a wider footing of blacklisting the petitioner for participating for one whole year for any work in the AAI.

Moreover, as rightly observed by the Division Bench, with utmost respect, another logic which sanctifies the territorial jurisdiction of this Court is that the

effect of the impugned blacklisting would directly be that the petitioner would not be able to function in any activity of the AAI from its registered office situated in Kolkata, which is within the territorial jurisdiction of this High Court.

The same, thus, operates on a wider scale than a mere refusal or rescission of a contract.

Thus, the objection as to territorial jurisdiction taken by the respondent is turned down.

The respondents have sought to highlight that the nature of the job demands the highest standards since the same affects the safety and security of millions of people who travel by air. Even without denying such a proposition, the same cannot be a stimulus *per se* to blacklist a particular concern without giving it an effective hearing and considering its objection/show cause.

In the present case, no objection or cause shown by the petitioner was even considered at any point in time by the respondent authorities, and the blacklisting was patently unilateral.

Apart from the above discussions, the petitioner is also justified in arguing that, within the broad compass of Article 226(2) of the Constitution of India, an injustice which affects a citizen of the country, perpetrated wherever within the territory of India, justifies interference by any of the High Courts of the country which exercise concurrent jurisdiction to such extent.

In view of the above findings, the impugned decision of blacklisting the petitioner is palpably *de hors* the law and principles of natural justice and is without authority.

WPO/742/2023 is, thus, allowed on contest, thereby setting aside the impugned blacklisting of the petitioner dated March 14, 2023.

However, nothing in this order shall prevent the respondent authorities from taking out fresh proceedings for blacklisting the petitioner by issuing a fresh show cause notice and upon giving adequate opportunity of hearing to the petitioner.

No order as to costs.

(SABYASACHI BHATTACHARYYA, J.)