

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3802 OF 2023

Rudra Systems ... Petitioner

versus

The State of Maharashtra & Ors. ... Respondents

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Mr. Shekhar Jagtap with Ms. Sairuchita Chowdhary and Mr. Karan Rasane i/b. J. Shekhar & Co. for the Petitioner.

Mr. M.M. Pabale, AGP for the State.

Mr. Rahul Sinha i/b. D.S.K. Legal for Respondent Nos. 2 to 8.

Mr. Sandeep Waghmare for Respondent No.9.

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**CORAM : NITIN JAMDAR, ACJ &
ARIF S. DOCTOR, J.**

DATE : 7 JULY 2023

P.C.:

Heard the learned Counsel for the parties. Taken up for disposal.

2. The Petitioner is aggrieved by order dated 23 March 2023 passed by Respondent No.3 debarring/ blacklisting the Petitioner for a period of three years. The Petitioner was awarded the work of meter reading, bill printing and bill distribution under Peinth Sub Division by E.E., Rural Division, Nashik from January 2020.

According to the Respondent-Maharashtra State Electricity Distribution Company Limited (MSEDCL), in the month of August 2021, it was observed that during the period from April 2021 to August 2021, there were wrong readings taken by the Petitioner due to which the revenue of the MSEDCL was blocked and created an unnecessary unrest among the consumers. Penalty was also imposed for wrong readings during the period from January 2020 to February 2022. According to the Respondent -MSEDCL, performance of the Petitioner, pursuant to the award of work, was substandard and a committee was formed as per Circulars dated 11 June 2018 and 15 September 2022 laying down the policy for debarring. On 16 March 2023, the Petitioner was given a notice to attend the hearing and show cause as to why the Petitioner should not be debarred. Thereafter, upon calling the Petitioner to attend on the next day, the Petitioner sought extension on the health ground which was granted till 21 March 2023. On 21 March 2023 also, the Petitioner did not remain present citing health reason and the impugned order came to be passed.

3. The learned Counsel for Respondent Nos. 2 to 8 states that the Petitioner has a remedy of filing an Appeal. The learned Counsel for the Petitioner submitted that the Petitioner had genuine health reason and therefore, could not remain present. The Petitioner has also medical certificate to support the same.

4. We have considered the rival contentions. As far as merits of the action of debarring is concerned, an appeal is provided under clause 19 of the Policy & Procedure For Debarring /Blacklisting of Agency From Business Dealings with MSEDCL. So far as the opportunity of hearing is concerned, we note that the Petitioner has cited health reasons. The fact remains that before passing the impugned order, the Petitioner was not heard.

5. Considering these facts and noting the implications of the impugned order on the Petitioner, we are of the opinion that an opportunity needs to be given to the Petitioner to put forth his say. However, at the same time, we do not intend to set aside the impugned order but consider the same as an interim order and to clarify that the observations made in the impugned order will be treated as *prima facie*.

6. Accordingly, we direct that the Petitioner will remain present before the concerned Committee on 24 July 2023. No separate notice to the Petitioner is necessary. The learned Counsel for the Petitioner, on instructions, undertakes that the Petitioner would remain present on that date. The Committee would give an opportunity to the Petitioner and thereafter, a final order be passed within four weeks.

7. The impugned order be considered as an interim order and the observations made therein are *prima facie*. The final order be passed after giving an opportunity to the Petitioner.

8. The Writ Petition is disposed of accordingly.

ARIF S. DOCTOR

ACTING CHIEF JUSTICE