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W.P.No.19909 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.19909 of 2023

and

WMP.Nos.19259 & 19261 of 2023

D.Sethuraman

...Petitioner

Vs.

1.The District Collector,
NH-40, Ranipet Collector Office,
Ranipet -632 401.

2.The Commissioner,
Arcot Municipality,
No. 5, Santhapettai Street,
Arcot, Ranipet – 632 503.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in proceedings Na.Ka.No. 0751/2022/E1 dated 04.05.2023 & Na.Ka.No.1090/2023/E1 dated 08.06.2023, quash the same and consequently forebear the respondents from interfering with the petitioner's right to participate in the tenders issued by the respondents without following the due process of law.



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For Petitioner : Mr.C.Vigneshwaran
For Respondents : Mr.S.Silambannan
Additional Advocate General (II)
Assisted by
Mrs.S.Anitha for R1 & R2
Special Government Pleader

ORDER

The petitioner herein seeks a direction to the second respondent to quash the proceedings in Na.Ka.No.0751/2022/E1 dated 04.05.2023 and Na.Ka.No.1090/2023/E1 dated 08.06.2023 and consequently forbear the respondents from interfering with the petitioner's right to participate in the tenders issued by the second respondent without following the due process of law.

2. The learned counsel for the petitioner submitted that the petitioner is a registered Government Class-I Contractor. He further submitted that the impugned order has been passed without giving show cause notice to the petitioner and without affording an opportunity to the petitioner to put forth his case.



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3. The learned Additional Advocate General appearing for the respondents 1 & 2 by taking this Court to the counter affidavit filed by the second respondent submitted that the petitioner was involved in various criminal cases and therefore, a resolution has been passed by the second respondent Municipality for his blacklisting. Further, the learned Additional Advocate General submitted that in case this Court comes to the conclusion that impugned order is bad for violation of natural justice principles, the second respondent may be permitted to proceed against the petitioner after affording opportunity.

4. The order blacklisting the petitioner will have a serious civil consequences. Therefore, the second respondent should not have passed the impugned order without affording opportunity to the petitioner to put forth his case. In ***Raghunath Thakur Vs. State of Bihar*** reported in **1989 (1) SCC 229**, the Hon'ble Apex Court while dealing with an order blacklisting a Contractor without affording an opportunity to him observed as follows:

"4. Indisputably, no notice had been given to the appellant of the proposal of blacklisting the appellant. It was contended on behalf of the State Government that there was no requirement in the rule



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of giving any prior notice before blacklisting any person. Insofar as the contention that there is no requirement specifically of giving any notice is concerned, the respondent is right. But it is an implied principle of the rule of law that any order having civil consequence should be passed only after following the principles of natural justice. It has to be realised that blacklisting any person in respect of business ventures has civil consequence for the future business of the person concerned in any event. Even if the rules do not express so, it is an elementary principle of natural justice that parties affected by any order should have right of being heard and making representations against the order. In that view of the matter, the last portion of the order insofar as it directs blacklisting of the appellant in respect of future contracts, cannot be sustained in law. In the premises, that portion of the order directing that the appellant be placed in the blacklist in respect of future contracts under the Collector is set aside."

The said observation of Apex Court is directly applicable to the facts of the present case. Therefore, this Court is inclined to set aside the impugned order as the same is violation of natural justice principles and accordingly the same is set aside.



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5. The allowing of the Writ Petition will not preclude the second respondent to proceed against the petitioner by following natural justice principles (i.e., after affording opportunity to him).

6. With the above observation, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

05.09.2023
(½)

Index : Yes/No
Internet : Yes/No
Neutral Citation Case : Yes/No
dna

To

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