

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6459 of 2022

Md. Shamsh Tabrez Khan son of Md. Ashique Bari Khan, resident of Mohalla- Kaji, P.S.- Sherghati, District- Gaya, Bihar- 824211.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Transport Department.
2. The State Transport Authority, Bihar, Patna, through its Secretary, Office Situated at Visheshwaraiya Bhawan, Bailey Road, Patna.
3. The Chairman, State Transport Authority, Bihar, Patna, Office Situated at Visheshwaraiya Bhawan, Bailey Road, Patna.
4. Dwarika Prasad, son of Naraayn Yadav, Resident of Village- Goitha, P.O. and P.S. Bankey Bazar, District- Gaya.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 6252 of 2022

Md. Zafar Alam Khan son of Late Ashique Bari Khan resident of Mohalla- Kaji, P.S. Sherghati, District- Gaya, Bihar- 824211.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Transport Department.
2. The State Transport Authority, Bihar, Patna, through its Secretary, Office Situated at Visheshwaraiya Bhawan, Bailey Road, Patna.
3. The Chairman, State Transport Authority, Bihar, Patna, Office Situated at Visheshwaraiya Bhawan, Bailey Road, Patna.
4. Sanjay Kumar Singh son of Sri Jamuna Prasad Singh, Resident of 10, Jay Prakash Nagar, Gali No. 9, Dhanbad, Jharkhand.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 6459 of 2022)

For the Petitioner/s : Mr. Rashid Izhar

For the Respondent/s : Mr. Ajay Kumar Rastogi (Aag 10)

(In Civil Writ Jurisdiction Case No. 6252 of 2022)

For the Petitioner/s : Mr. Rashid Izhar

For the Respondent/s : Mr. Smt. Anuradha Singh (Sc21)

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 22-10-2024



Civil Writ Jurisdiction Case No.6459 of 2022

Heard the learned counsel for the parties.

The present writ petition has been filed for the following reliefs:-

“I. quashing the the Blacklisting / Permanent Debarment Order dated 28.07.2021 (signed on 19.08.2021 and issued on 23.08.2021 vide Memo No. 5177) and the Order dated 27.12.2021 passed by the State Transport Appellate Tribunal, Bihar, Patna in Transport Appeal No. 09 of 2021, upholding the such action against the Petitioner which was taken by the Transport Respondents for filing an Objection Application for grant of Permit in name of Respondent No. 4, on wrong eligibility criteria.

II. Issuance of writ or writs directing the Respondent Transport Authority to allow the Petitioner to file any further Application for grant of Permit in favour of the Petitioner in any other Advertisement for grant of Transport Permit and also accept the Countersign of the Petitioner on the future Permit, if granted, in favour of the Petitioner.

III. Grant such other relief or reliefs to which the petitioner may be entitled in the facts and circumstances of this case.”

3. It is the case of the petitioner that he is an owner of buses and basing on the advertisement given by the respondent authority for grant of Permanent Inter State Stage Carrier Permit on different routes from Patna to Durgapur via Aurnagabad, Hazaribagh, Dhanbad, the petitioner has applied along with the requisite fees. As a distance between the two points of the route is more than 250 kilometers, two vehicles are required to be plyed



and the petitioner has applied for both vehicles. That altogether 19 applications were received for this particular route and scrutiny of the eligible applications was made based on the education certificate, heavy motor vehicle driving license and depending on the merit, the candidates were picked. The respondent No. 4 herein has also filed his application for grant of Permanent Stage Carrier Permit from Patna to Durgapur route and two vehicles i.e., BR02PB7824 & BR02PB6024 were submitted for consideration. Along with his application, the respondent No. 4 has also furnished the education certificates, heavy motor vehicle and driving license. Thereafter, objections were called from the persons against the individual application and the petitioner after coming to know that the respondent No. 4 has submitted forged and fabricated documents for securing more points has filed his objections. The respondent No. 4 instead of filing only one application for one permit for two vehicles required for one round trip has filed two applications for grant of one round trip permit. As per the requirement, the objection petition filed by any person has to be duly enclosed with the *challan* of Rs. 1000/-. The petitioner filed his objection petition against the respondent No. 4 herein and also against one Sunil Kumar Singh S/o Ram Prawesh Singh, that due to oversight, the two original *challans* were tagged



to one objection petition and in the other objection petition the photocopy of the *challan* was submitted. That the authority instead of rejecting the objection petition made by the petitioner for not enclosing the original *challan* has gone ahead and black-listed the name of the petitioner.

4. Learned counsel for the petitioner has stated that the act of the respondent in black-listing the petitioner from getting any permit and also barging further participation is contrary to the well established principles of law. Though the petitioner has filed the appeal before the appellate authority, the authority has only modified the order passed by the primary authority and the black-listing portion of the impugned order is still in subsistence. That the order is liable to be set aside on the following grounds;

(i) That the black-listing was done without putting the petitioner on show cause notice

(ii) That there is no provision for black-listing the petitioner merely on the ground that the original *challan* was not annexed with the objection petition.

(iii) That the order of black-listing is contrary to the principles of natural justice and equity.

5. Learned counsel has stated that the order passed by both the appellate as well as the primary authority are contrary to



the settled principles of law as laid down by this Hon'ble Court as well as the Hon'ble Supreme Court in a catena of cases. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned orders by allowing the present writ petition.

6. *Per contra*, the learned counsel for the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner with a view to play fraud on the authority has enclosed the photocopy of the original *challan* and the same was done to defraud the authority. Learned counsel has further stated that the order which is impugned in the present writ petition is a well reasoned order which does not warrant any interference by this Hon'ble Court and, therefore, prayed this Hon'ble Court for dismissing the present writ petition.

7. The Hon'ble Supreme Court in the catena of cases has held that black-listing of a person/ firm is a harsh penalty which cannot be imposed for minor violations unless and the same has to be restored only when the person in a serious violations. That before taking any action the authorities have to put the petitioner on notice and call for an explanation.

8. The Hon'ble Supreme Court in *Erusian Equipment of Chemicals Ltd. etc. v. State of West Bengal and Anr.*, reported in *AIR 1975 SC 266* has held as under;



“Blacklisting has the effect of preventing a person from the privilege and advantage of entering into lawful relationship with the Government for purposes of gains. The fact that a disability is created by the order of blacklisting indicates that the relevant authority is to have an objective satisfaction. Fundamentals of fair play require that the person concerned should be given an opportunity to represent his case before he is put on the blacklist.”

9. Further, in **Raghunath Thakur v. State of Bihar and Ors.**, reported in **Air 1989 SC 620**, it was held 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 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...”

10. In S.N. Mukherjee v. Union of India, reported in **AIR 1990 SC 1984.** The Hon’ble Supreme Court dealt with the development of administrative law and the principle of the requirement to record reasons. The Supreme Court has held as under;

“In view of the expanding horizon of the principles of natural justice, the requirement to record reason can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities....

Therefore except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required to record its reasons for its decision.

What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. The need for recording of reasons is greater in a case where the order is passed at the original stage.”



11. As seen from the record in this particular case, the petitioner has not been put on prior notice before the order of black-listing has been passed. Further, the impugned order does not reveal under what provision of law, the authorities have passed the order of black-listing. Further, it is to be noted that in case the objection petition made by the petitioner was defective i.e. not enclosing the *challan* of Rs. 1000/-, the authority could have simply rejected the application, but for reasons best known to them, they have come to the conclusion that the petitioner is trying to defraud the authorities of Rs. 1000/-. Had the petitioner been put on prior notice, it could have come to their knowledge that the petitioner has actually taken two *challans* and the said two *challans* were annexed to only one objection petition. Therefore, the conclusion reached by the authorities that the petitioner is trying to defraud the authorities of Rs. 1000/- is without any basis. As held by the Hon'ble Supreme Court, the punishment of blacklisting is a very harsh punishment having serious civil and financial consequences, only if the allegations against a particular person are very serious in nature then only the punishment of black-listing can be passed. But in this particular case the authorities without any verification of the objection petition made by the petitioner have black-listed the petitioner that to without



putting him on show cause notice. That the said action is opposed to the principles of natural justice and equity. On this ground alone, both the orders dated 28.07.2021 passed by the primary authority and dated 27.12.2021 passed by the appellate authority are liable to be set aside and accordingly set aside, the petitioner shall be allowed to participate in any future contracts floated by the authority without any impediment.

12. With the above direction, the present writ petition stands allowed to the extent indicated.

Civil Writ Jurisdiction Case No.6252 of 2022

Heard the learned counsel for the parties.

The present writ petition has been filed for the following reliefs:-

“I. quashing the the Blacklisting / Permanent Debarment Order dated 28.07.2021 (signed on 19.08.2021 and issued on 23.08.2021 vide Memo No. 5177) and the Order dated 27.12.2021 passed by the State Transport Appellate Tribunal, Bihar, Patna in Transport Appeal No. 09 of 2021, upholding the such action against the Petitioner which was taken by the Transport Respondents for filing an Objection Application for grant of Permit in name of Respondent No. 4, on wrong eligibility criteria.

II. Issuance of writ or writs directing the Respondent Transport Authority to allow the Petitioner to file any further Application for grant of Permit in favour of the Petitioner in any other Advertisement for grant of Transport Permit and also accept the



Countersign of the Petitioner on the future Permit, if granted, in favour of the Petitioner.

III. Grant such other relief or reliefs to which the petitioner may be entitled in the facts and circumstances of this case.”

3. This Court *vide* order dated 22.10.2024 in CWJC No.

6459 of 2022 under similar circumstances has allowed the writ petition filed by the petitioner therein. The facts in that particular case and in this case are identical. In this particular case also, the petitioner has filed his complainant against the respondent No. 4 and along with the objection petition, the petitioner has filed the photocopy of the *challan* which admittedly has been annexed to another complaint. The Court after going through the pleadings has come to the conclusion that the order of black-listing was too harsh and the same without issuing any show cause notice to the petitioner and that there was no provision for black-listing the petitioner even if there was any lapses on his part. The Court in CWJC No. 6459 of 2022 relying on the judgments of the Hon'ble Supreme Court in *Erusian Equipment of Chemicals Ltd. etc. v. State of West Bengal and Anr.*, reported in *AIR 1975 SC 266*, *Raghunath Thakur v. State of Bihar and Ors.*, reported in *Air 1989 SC 620* and in *S.N. Mukherjee v. Union of India*, reported in *AIR 1990 SC 1984*.

4. As seen from the record in this particular case, the petitioner has not been put on prior notice before the order of



black-listing has been passed. Further, the impugned order does not reveal under what provision of law, the authorities have passed the order of black-listing. Further, it is to be noted that in case the objection petition made by the petitioner was defective i.e. not enclosing the *challan* of Rs. 1000/-, the authority could have simply rejected the application, but for reasons best known to them, they have come to the conclusion that the petitioner is trying to defraud the authorities of Rs. 1000/-. Had the petitioner been put on prior notice, it could have come to their knowledge that the petitioner has actually taken two *challans* and the said two *challans* were annexed to only one objection petition. Therefore, the conclusion reached by the authorities that the petitioner is trying to defraud the authorities of Rs. 1000/- is without any basis. As held by the Hon'ble Supreme Court, the punishment of blacklisting is a very harsh punishment having serious civil and financial consequences, only if the allegations against a particular person are very serious in nature then only the punishment of black-listing can be passed. But in this particular case the authorities without any verification of the objection petition made by the petitioner have black-listed the petitioner that to without putting him on show cause notice. That the said action is opposed to the principles of natural justice and equity. On this ground



alone, both the orders dated 28.07.2021 passed by the primary authority and dated 27.12.2021 passed by the appellate authority are liable to be set aside and accordingly set aside, the petitioner shall be allowed to participate in any future contracts floated by the authority without any impediment.

5. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.12.2024.
Transmission Date	NA

