

Item No.24
23.09.2024
Court. No. 9
GB

W.P.A. 18336 of 2024

M/s. S.S. Engineering Enterprise & Anr.
Vs.
The Union of India & Ors.

Mr. Kallol Basu,
Mr. Debdipto Banerjee,
Mr. Soumen Banerjee,
Mr. Atreya Chakraborty

...for the Petitioners.

Mr. Asis Kumar Mukherjee,
Mr. Amal Kumar Datta

...for the U.O.I.

Mr. Arijit Bakshi

...for the Respondent Nos.2 to 7.

1. The writ petition has been filed challenging an order dated April 2, 2024, issued by the Controller of Administration, Birla Industrial and Technological Museum, a unit of the National Council of Science Museums under the Ministry of Culture, Government of India.
2. By the order impugned, the petitioners were blacklisted from participating in any tender of Srikrishna Science Centre, Patna for a period of two years as well as other units of the National Council of Science Museums.
3. Under such circumstances, the jurisdiction of this Court has been invoked under Article 226 of the Constitution of India on the ground that the petitioner would not be in a position to participate in any tenders for the unit in Kolkata.
4. Mr. Basu, learned advocate for the petitioner submits that the order suffers from violation of principles of

natural justice and is arbitrary and unreasoned. Article 14 of the Constitution of India has thus been violated. Mr. Basu also submits that the show cause notice suffered from inherent lack of jurisdiction and also was issued with a closed mind. It is urged that a close minded show cause notice is amenable to the jurisdiction of this Court under judicial review. The same must be struck down on the ground that the authority had already decided the matter against the petitioner.

5. Learned advocate for the authorities submits that the writ is not maintainable as the contract is private in nature. Learned advocate for the authority submits that an expert committee was appointed in terms of the bye-laws of the National Council. Inspections were made and the order was passed.

6. The order of blacklisting reads as follows:

“Sir(s)

With reference to the above, this is to inform you that the explanation submitted by you vide letter no.SSEE/23-24/262 dated 28.03.2024 is not satisfactory.

Your firm is, accordingly, blacklisted from participating in any tender of Srikrishna Science Centre, Patna as well as other units of National Council of Science Museums for a period of two (02) years commencing from the date of issue of this letter.

Thanking you.”

7. This Court finds that the reasons as to why the explanation submitted by the petitioners were not found to be satisfactory, have not been disclosed. This

Court further finds that the findings of the inspection team and the experts which gave rise to the decision that the petitioners' explanation could not be accepted as valid, have not been disclosed.

8. Moreover, the arbitration clause in the contract, does not cover a dispute of like nature.
9. Under such circumstances, the unreasoned order of blacklisting for a period of two years, without dealing with each and every contention of the petitioners in the reply to the show cause notice, suffers from violation of the principles of natural justice and is contrary to Rule of law.
10. Under such circumstances, the order impugned is set aside. Liberty is granted to the authority to proceed afresh from the stage of hearing, on the basis of the show cause notice and the answer of the petitioners to the said show cause notice.
11. All issues raised by the petitioners, including the maintainability of the show cause notice can be raised before the authority.
12. This Court has not entered into the merits of the issues involved.
13. Accordingly the writ petition is disposed of.
14. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)