

28-11-2024
Item No.8
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

WPA No.27982 of 2024
Sanhit Polymer
-vs-
State of West Bengal & Ors.

Mr. Saptansu Basu, sr. adv.
Mr. Sumita Shaw, adv.
Mr. Nilendu Bhattacharya, adv.
Mr. Somen Chatterjee, adv.
Mr. Sujit Gupta, adv.
Mr. Supriyo Majumder, adv.
Ms. Shayani Das, adv. ...for the petitioner

Sk. Md. Galilb, sr. Govt. adv.
Mr. Alok Banerjee, adv. ...for the State

1. The petitioner is aggrieved by an order of blacklisting and debarment dated October 4, 2023 (Annexure P15, p.80) passed by the Director of Disaster Management, West Bengal debarring participation of the petitioner in future tenders under the department.
2. By a communication dated October 12, 2022 the petitioner was directed to appear for a hearing to be held on November 2, 2022 in response to a complaint received against the petitioner in respect of blacklisting by Punjab State Civil Supplies Corporation Limited. The petitioner attended the hearing and the impugned order of blacklisting and debarment was passed on October 4, 2023.
3. Submission of the petitioner is that the petitioner was never intimated about the offence or any deficiency on its part.

4. Further submission is that neither the notice of hearing nor the impugned order of blacklisting and debarment contain any reason.
5. Learned senior advocate representing the petitioner relies upon the decision passed by the Hon'ble Supreme Court in the matter of **Secretary and Curator, Victoria Memorial Hall v. Howrah Ganatantrik Nagrik Samity & Ors.** reported in (2010) 3 SCC 732, paragraphs 40 and 41 thereof which mentions that "reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, it becomes lifeless..... Absence of reasons renders the order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum".
6. It has further been contended that as the order of debarment and blacklisting is not a reasoned one, the same should be set aside.
7. Reliance has also been placed on the decision delivered by the Hon'ble Supreme Court in the matter of **Gorkha Security Services v. Government (NCT of Delhi) and Ors.** reported in (2014) 9 SCC 105, paragraphs 27, 28 and 29 thereof; and also the judgment in the case of **UMC Technologies Private Limited v. Food Corporation of India & Anr.** reported in (2021) 2 SCC 551, paragraphs 24 and 25, in support of the submission that non-disclosure of reason will amount to violation of the principle of natural justice and hence the impugned order of blacklisting is liable to be set aside.
8. On the other hand, learned counsel for the State respondents relies upon instructions forwarded by the Director of Disaster Management; let it be taken on record. It has been mentioned therein

that the Directorate issued the order of blacklisting against the petitioner for suppressing facts and submission of forged documents. Further, there is a reference that the petitioner was blacklisted for five years by Punjab State Civil Supplies Corporation Limited in the year 2018.

9. It has also been submitted that the petitioner appeared in the hearing and never raised any issue that the complaint against the petitioner was not made known. It is the contention that rather the petitioner all along knew the reason as to why it was directed to appear for hearing.
10. Upon hearing the respective parties and upon perusal of the materials on record, it appears that there may be genuine reasons for debarring and blacklisting the petitioner, but that the said order can be passed only after affording reasonable opportunity to the petitioner to meet the allegation made against it.
11. Till the offender is made aware of his offence, he will not be in a position to defend himself. The impugned order of blacklisting and debarment, in my view, is an absolute cryptic, non-speaking and unreasoned one which cannot be supported in law.
12. Accordingly, the impugned order dated October 4, 2023 is hereby set aside.
13. It will be open for the respondent authorities to take further steps in the matter only after affording the petitioner a reasonable opportunity to defend itself by supplying the reasons for initiating any action against it.
14. The writ petition is disposed of.
15. All parties are to act on the server copy of this order duly downloaded from the official website of

this court.

16. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]