



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

ARBITRATION APPEAL NO.38 OF 2024

M/s Shree Ganesh Enterprises, A Proprietorship Firm thr. its Sole Proprietor
(Vs.)

Maharashtra State Power Generation Co. Ltd. thr. its the Chief Engineer, Koradi

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. M.I. Dhattrak, Advocate for the appellant.

CORAM : G.A. SANAP, J.

DATE : 08.08.2024

The office note shows that the respondent is duly served but nobody appears for the respondent.

2. In this appeal, filed under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, "the Act of 1996"), the challenge is to the order dated 18.05.2024 passed by the learned District Judge-8, Nagpur, whereby the prayer for staying the order of illegal blacklisting the appellant, was not granted. Learned Judge vide order dated 18.05.2024 restrained the respondent from

terminating the existing on going contracts/tenders as per letter dated 08.05.2024 till next date.

3. It is seen that in view of the communication-cum-order dated 08.05.2024 the appellant/company and any other company registered in the name of its directors is black listed and not allowed to participate in any ongoing and future tenders for a period of three years.

4. The appellant filed an application under Section 9 of the Act of 1996 for grant of interim measures against this communication-cum-order dated 08.05.2024.

5. Perusal of the order dated 18.05.2024 would show that there is no observation as to why the prayer for stay to the order/notice dated 08.05.2024 illegal black listing the appellant was not granted. It needs to be stated that the main application under Section 9 filed under the Act of 1996 is *subjudice* before learned District Judge,

Nagpur. In the said application, the appellant has stated numerous grounds for seeking the relief of stay or injunction to the said communication-cum-order. The principal ground is that the said decision to black list for three years was taken without following the provisions and without granting him sufficient opportunity. Learned District Judge is required to decide the said application under Section 9 of the Act of 1996. Learned District Judge-8, Nagpur was therefore, required to grant the appropriate relief to the applicant. If the black listing for three years is without any substance then the said communication or order would ultimately be set aside. In my view, the learned Judge was therefore, required to stay the direction and hear the matter and decide it finally.

6. In view of this, the appeal is allowed.

(i) The prayer for stay to the order of black listing of the appellant for three years vide communication dated 08.05.2024 is allowed till decision of the Arbitration Application

No.58/2024.

(ii) Learned Judge considering the nature of relief shall see that this application is disposed of expeditiously.

7. In view of aforesaid, the Arbitration Appeal is disposed of.

JUDGE

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