



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

**WRIT PETITION NO. 4281 OF 2024**

(M/s Siddhi Enterprises Vs. Collector Cum Dist. Selection Officer, Akola)

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

Court's or Judge's orders

Mr. N.B. Rathod, Advocate for petitioner.

Mr. N.S. Rao, AGP for respondent /State.

**CORAM : AVINASH G. GHAROTE &  
ABHAY J. MANTRI, JJ.**

**DATED : 04-02-2025**

The petition questions the communication dated 4.3.2024 (page 29) issued by respondent, thereby blacklisting the petitioner for a period of two years ie. till 31.12.2025 on account of an alleged inability, claimed by the petitioner, in performing the work of providing catering services to the various polling booths for Lok Sabha election of 2024 and the Vidhan Sabha elections of 2024, for Akola constituency.

2. Mr. Rathod, learned Counsel for the petitioner submits, that the petitioner was L1 in the aforesaid tender and though the petitioner had initially expressed its inability to work on the rate quoted as L1, by its communication 27.2.2024 (page 39) and asked for increase in rate, however, by the communication dated 28.2.2024 (page 28), it had expressed its willingness to make the supply, in terms of the tender and had given an assurance to the respondent to that effect, however, without affording an opportunity to the petitioner to do so, even prior to that by the communication dated 27.2.2024 (p 27) the petitioner was asked to show cause as to why it should not be blacklisted. He therefore, submits, that when the petitioner had expressed its intention

to perform the work, which was manifest from the communication 28.2.2024, the subsequent blacklisting by the impugned communication dated 4.3.2024 was clearly not justified.

3. Mr. Rao, learned AGP by placing reliance upon *Patel Engineering Limited Vs. Union of India and another, (2012)11 SCC 257* submits that the order of blacklisting was clearly justified as the credibility and trustworthiness of the petitioner was clearly under cloud, on account of the communication dated 27.2.2024 (p39), he therefore, submits, that the blacklisting of the petitioner was clearly justified concerning that the tender was for the purpose of supply during the period of elections.

4. In *Patel Engineering Limited* what fell for consideration of the Hon'ble Apex Court, was a tender for development and operation/maintenance of 6 lane of Dhankuni – Kharagpur, Section of NH 6 on DB FOT basis for which the petitioner had quoted a premium of Rs. 193.53 Cr. per year and was declared the highest bidder and when by a letter dated 17.1.2011 was informed that it would have been accepted and was called upon to confirm its acceptance within 7 days in terms of clause 3.3.5 of the RPF, the petitioner therein by its communication dated 24.1.2011 had expressed his inability to confirm acceptance as it found the bid to be commercially unavailable on a second look. It is in this factual background, that the Hon'ble Apex Court upheld the order of blacklisting of the petitioner as it found that the petitioner was not reliable and trustworthy in context of the

commercial transaction and on account of the dereliction of the petitioner, the respondent had suffered huge financial loss. In the instant case, though there is initial refusal on part of the petitioner to work on the L1 rates, as is indicated by the communication dated 27.2.2024 (p39), however, in response to the notice to show cause for blacklisting dated 27.2.24 (p 27) by its communication dated 28.2.2024 (p28) the petitioner had clearly expressed its agreement, to perform the work. This being so, the respondent, could have at least, permitted the petitioner, to perform the work and in case, it was not satisfactorily done taken the action of blacklisting. The conspectus of facts, clearly indicate, that the respondent, had preconceived notion of blacklisting the petitioner, on account of the petitioner not agreeing to lower the rates in the negotiations. It is therefore, clear, that this action on part of respondent in blacklisting cannot be sustained.

5. Though, Mr. Rao, learned AGP relies upon ***Patel Engineering Limited*** (supra), we find that the factual position indicated therein, and the stakes and nature of contract which was under consideration therein, is totally different from the contract which is under consideration which was for the purpose of supplying catering services. Though we cannot deny that the principles would be applicable, however, in the instant case, when the petitioner by communication 28.2.2024 had specifically expressed, its willingness to perform the work, in our considered opinion, an opportunity ought to have been granted to the petitioner and in case, he defaulted then perhaps the question of blacklisting, could have been considered.

6. In view of the above discussion, we find that the impugned order dated 4.3.2024 blacklisting the petitioner cannot be sustained as nothing has been brought on record to show that the petitioner was not trustworthy as such an opinion could only have been formed if the petitioner was permitted to work and failed in its performance. In view of what has been held above, clause 15 of the NIT would also not be applicable, as the petitioner though had expressed intention to work was not granted that opportunity. The impugned order 4.3.2024 is hereby quashed and set aside and the petition is allowed in the above terms. No costs.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

*Belkhede*