

Court No. - 2

Case :- WRIT - C No. - 5690 of 2025

Petitioner :- M/S Shiva Raj Jv Enterprises Thru. Power Of Attorney Holder Shri Virendra Pratap Singh

Respondent :- U.O.I. Thru.Its General Manager Northern Railway New Delhi And 3 Others

Counsel for Petitioner :- Akber Ahmad,Gaurav Mehrotra

Counsel for Respondent :- A.S.G.I.

Hon'ble Rajan Roy,J.

Hon'ble Praveen Kumar Giri,J.

1. Heard.

2. By means of this writ petition, the petitioner has challenged an order dated 29.11.2024. Certain penal actions have been taken against him including blacklisting. The petition is confined to blacklisting of the petitioner.

3. It is informed that a similar order was passed in respect of M/s Shiva Enterprises, a lead member of the joint venture, which was the subject matter of challenge in Writ-C No.3566 of 2025 (M/s Shiva Enterprises Vs. Union of India and others). The said writ petition was disposed of on 15.05.2025 in the following terms:-

"1. Heard Shri Gaurav Mehrotra, learned counsel for the petitioner and Shri Ankit Srivastava, learned counsel for the opposite parties.

2. On 02.05.2025 we had passed the following order:-

"Supplementary affidavit has been filed by the petitioner in response to our earlier orders, according to which, the factum of another person having been inducted as a partner was brought to the notice of different authorities, though, not to the railways, therefore, the error was an inadvertent one in submitting an old copy of the partnership deed instead of the subsequent deed.

Learned Counsel for the opposite parties prays for sometime to seek instructions in the matter.

List/Put up this case on 15.05.2025 as fresh."

3. After arguing the matter at some length on being confronted with our order dated 02.05.2025 Shri Ankit Srivastava, learned counsel for the opposite parties submitted that the new firm did not fulfill the eligible financial criteria, however, on being asked as to what is the reason given in the impugned order for black listing the petitioner and whether this is the reason mentioned in the impugned black listing order or the show cause notice dated 21.11.2024 he also submitted that this was not the reason.

4. In view of the aforesaid as in view of what has been noticed by us in our order dated 02.05.2025 quoted hereinabove, to which, as of now no reply much less a plausible one has been put forth by learned counsel for the opposite parties rather a different reason is being put forth today which is not mentioned in the show cause notice or the impugned order and the explanation offered by the petitioner, as, noticed in our order dated

02.05.2025, has not been taken into consideration, may be because the decision had been taken prior to receipt of the reply of the petitioner, we quash the impugned order of black listing dated 29.11.2024, however, with liberty to the opposite parties to proceed afresh in accordance with law.

5. The writ petition is disposed of, accordingly. "

4. The lead member of the petitioner M/s Shiva Enterprises proposes to participate in a tender process floated by Northern Railway and a declaration is required in the form of Annexure No.5 at page No.196, which requires it to declare as to whether it was blacklisted individually or jointly, earlier. It is in this context that the impugned order dated 29.11.2024 is coming in its way.

5. The contention is that the illegality in the impugned order is the same as was noticed in a similar order passed against M/s Shiva Enterprises. The only difference is that the impugned order is against the joint venture, where the earlier order was only against the lead member of M/S Shiva Enterprises.

6. On being confronted, Shri Varun Pandey, learned counsel for the opposite party could not deny the fact that the matter is similar to the earlier writ petition and the same issues have been raised herein regarding the subsistence of the partnership etc.

7. In view of the aforesaid and as we also find the aforesaid assertion to be correct and as in this case also, the reply to the show cause notice has not been taken into consideration while passing the impugned order dated 29.11.2024, we, therefore, quash the impugned order dated 29.11.2024 with liberty as was granted in the earlier case to the opposite parties to proceed afresh in accordance with law.

8. Accordingly, the writ petition is **disposed of**.

(Praveen Kumar Giri,J.) (Rajan Roy,J.)

Order Date :- 3.6.2025
Ashutosh