Salgaonkar

MANDIRA MILIND SALGAONKAR Digitally signed by MANDIRA MILIND SALGAONKAR Date: 2026.08.24 17:36:07 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.850 OF 2022

M/s Turtle Infra .. Petitioner

Versus

Union of India & Anr. .. Respondents

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Mr.Mihir S. Raje with Ms.Aditi Sirsava for the Petitioner.

Ms.Shehnaz V. Bharucha with Mr.Mohamedali M. Chunawala for the Respondents.

CORAM: BHARATI DANGRE &
ASHISH S. CHAVAN, JJ.
DATE : 18th AUGUST, 2026

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P.C:-

1. Rule. Rule is made returnable forthwith. Heard by consent of the parties.

2. The Petition is filed by the Petitioner, being aggrieved by the removal of its name from the approved list of the Contractors, maintained by the Chief Engineer, Southern Command.

The Petition seeks a relief of quashing and setting aside of the impugned order, which has directed the Petitioner's name to be removed from the list, which has a permanent effect.

3. We have heard the learned counsel for the Petitioner and the learned counsel appearing for Respondent Nos.1 and 2. By consent of the parties, we have taken up the Petition for final hearing. The position of law as regards the duration of blacklisting/debarring of the Contractor, by this time, has been well settled and the Hon'ble Apex Court in the case of ***Kulija Industries Limited Vs. Chief General Manager, Western Telecom Project, Bharat Sanchar Nigam Limited & Ors.***[1] has clearly laid down the proposition of law to the effect that blacklisting will only preclude the party from participating in the tender process for a specific period of time and the relevant portion of the decision, specifically reads thus :-

> "25. Suffice it to say that "debarment" is recognised and often used as an effective method for disciplining deviant suppliers/contractors who may have committed acts of omission and commission or frauds including misrepresentations, falsification of records and other breaches of the regulations under which such contracts were allotted. What is notable is that the "debarment" is never permanent and the period of debarment would invariably depend upon the nature of the offence committed by the erring contractor."

This decision is subsequently followed in number of decisions, to clearly highlight that before blacklisting of a contractor, it will be necessary to issue a show-cause notice and pursuant to the reply being received, by adhering to the principles of natural justice, only on finding adequate and justiciable ground, an action of blacklisting shall be initiated. Blacklisting has always been considered to have severe consequences, as it result into stigmatization that accrues to the person or entity, which is blacklisted and has an effect of denying a person or entity the privileged opportunity of

1 (2014) 14 SCC 731

entering into the Government contracts. It is in light of this prevailing position as regards the blacklisting, the Apex Court in recent decision in the case of ***Mar's Developers and Suppliers Vs. State of Odisha & Ors.***[2], by relying upon ***Kulija Industries Ltd.*** (supra), has specifically held that an order of debarment, which did not specify the period of its operation, cannot be sustained and assuming that it had a life of one year, which is also over, the debarment period was declared to be over.

4. It being a well settled position in law that without specifying the maximum time limit for which the debarment/blacklisting shall continue, we must note that the show-cause notice issued to the Petitioner on 11/05/2019, in terms of the directions of the High Court, issued in Writ Petition No.13390 of 2018, which directed an opportunity to be granted to the Petitioner, for explaining the alleged lapses, on consideration of the lapses, show-cause notice is issued, calling upon it to show-cause as to why the firm shall not be removed from the approved list of 'C' class contractor of the Head Quarter or banned for further issue of tenders for a period of five years or any other disciplinary action, as may be deemed fit, shall not be initiated against it. However, despite the Petitioner being asked to show-cause as to why it shall not be debarred for five years, the impugned order dated 22/07/20219 in form of a disciplinary action, relying upon the gravity of the accusations, record that since the noticee was not able to furnish any satisfactory/credible explanation to the show-cause notice dated 11/05/2019, in exercise of the powers

2 2025 SCC OnLine 3327

conferred to the Authority, being the Registering Authority, he directed the removal of the firm, M/s Turtle Infra from the approved list of Contractors of Chief Engineer, Southern Command without specifying any time limit.

In the wake of the well settled law that blacklisting or debarment which has serious civil consequences, without getting into the merits of the matter, and justiciability of imposition of penalty in form of blacklisting, we set aside the impugned order dated 22/07/2019, by restricting it to a period of five years, as indicated in the show-cause notice, as that could have been the maximum period for which even the Department intended to debar it. However, as the impugned order does not mention any specific period, without getting into the merits of the accusations faced and the justification in imposing the debarment for a period of five years, since the period of five years has already expired, we direct that the debarment order shall cease to exist on expiry of period of five years from the date when it is passed.

In the wake of the aforesaid, since the period of five years is over, we declare that the blacklisting/debarment of the Petitioner or removal of its name from the approved list of 'C' class contractor maintained by the Chief Engineer, Southern Command shall be rectified to include the name of the Petitioner, upon expiry of period of five years from the date when the impugned order has been passed.

5. Though the learned counsel Ms.Bharucha representing the Respondents Authority has vehemently argued before us that the seriousness of the accusations warranted imposition

of severe penalty, we are unable to subscribe to her view, as we are of the view that whatsoever the accusations may be or howsoever serious they are, if the debarment cannot be for indefinite period and has to have a time-line and since it was also open for the Disciplinary Authority to prescribe a debarment for five years and we would not have interfered, but when in the show-cause notice it is indicated as to why the name shall not be removed for a period of five years, we restrict the period of debarment to five years.

6. We direct the Respondents to include the name of the Petitioner in the list, as directed above, by taking necessary steps within a period of twelve weeks from the date of receipt of the order.

Rule is made absolute in the aforestated terms.

(ASHISH S. CHAVAN, J.) **(BHARATI DANGRE, J.)**