

W.A.(MD).No.665 of 2025

IN THE COURT OF MADURAI BENCH OF MADRAS HIGH

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Reserved on: 09.04.2025

Delivered on : 29.04.2025

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

AND

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.A.(MD).No.665 of 2025

and

C.M.P.(MD).No.4706 & 4708 of 2025

Muthupandeeswari,

Proprietor,

M/s.Muthupandeeswari Modern Rice Mill

No.43/5, Karisallkulam Road

Samanatham, Madurai District

...Appellant

-Vs-

1.The Managing Director,

Tamil Nadu Civil Supplies Corporation

No.12,Thambusamy Street

Kilpauk,

Chennai-600 010

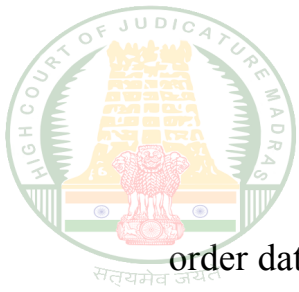
2.The Sub Collector/Regional Manager

Tamil Nadu Civil Supplies Corporation

Madurai Region, Madurai.

..Respondents

Prayer: Writ Appeal preferred under clause 15 of the Letter Patent against the



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order dated 17.02.2025 passed in W.P.(MD).3829 of 2025.

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For Appellant: Mrs.N.Krishnaveni, Senior Counsel,

For M/s. S.Sakthi Siddharth.

For Respondent: Mr. R.Baskaran, AAG,

Assisted by Mr. Satheesh, Standing Counsel.

JUDGMENT

(The Judgment of the Court was made by J. NISHA BANU,J.)

This Writ Appeal is filed as against the order dated 17.02.2025 passed in W.P.(MD).3829 of 2025, wherein, the writ court referred the dispute to the sole arbitrator for adjudication of the matter relating to the blacklisting of the appellant rice mill by the 2nd respondent.

2. The Appellant is M/s.Muthupandeeswari Modern Rice Mill. The Appellant is an authorized hulling agent with the Tamil Nadu Civil Supplies Corporation (hereinafter referred to 'TNCSC') from the year 2007 through an agreement for the period of 5 years which was lastly renewed on 29.07.2020. The 2nd respondent is an authorized person responsible for allotting and supplying paddy to the mills. The appellant used to receive paddy from the 2nd respondent based on monthly allotments, determined by eligibility criteria and



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issued through "Delivery Orders." Upon receipt of the paddy, the appellant

issued a "Paddy Acknowledgment Receipt" through TNCSC contract carriers.

A monthly paddy input register and a monthly check card are maintained at the mills, and the said register and check card must be verified, checked, and duly signed by the offices of the 1st and 2nd respondents every month.

3. The 2nd respondent is the TNCSC Regional Office in Madurai.

This office procures paddy from other regions and stores it in the godown at Kadachanenthall, Madurai. From there, the paddy is supplied to rice mills by issuing memos.

4. In the present case, a lorry bearing registration number TN28AD4476 was entrusted by the Paramakudi Regional Office on 20.03.2024 to transport 400 bags of paddy to the 2nd respondent's godown. However, the consignment never reached the 2nd respondent's office. The lorry owner later claimed that his driver delivered the 400 bags to the appellant's mill and sought her signature for acknowledgment. The appellant denied receiving the paddy bags and refused to sign, as she had never received the said consignment. She immediately alerted and formally informed the 2nd respondent about this on 07.05.2024.



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5. While so, on 05.06.2024, the 2nd respondent sent a notice to the appellant, calling for an explanation regarding the missing 400 bags of paddy and requesting the production of the monthly chart relating to the receipt of paddy. The appellant submitted a reply on 08.06.2024, along with the monthly chart duly verified and signed by the officials of the 2nd respondent. The paddy input register for the month of March 2024 clearly shows that it was verified and signed by the 2nd respondent on 06.04.2024, and it confirms that no paddy was received by the appellant on 20.03.2024.

6. Subsequently, on 14.08.2024, an enquiry was instituted by the 1st respondent to investigate the missing paddy. During the enquiry, the appellant denied having received the paddy. However, without issuing notice or providing an opportunity of hearing, the 1st respondent passed an order dated 04.10.2024, forfeiting a sum of Rs. 4,41,000/- towards the value of the 400 missing bags of paddy. This order was based on the enquiry report dated 12.09.2024, which found the appellant at fault for allegedly receiving the paddy, as the delivery memo was signed by her staff member, Rohini. The 1st respondent also directed the 2nd respondent to blacklist the appellant in accordance with Clause 12 of the agreement dated 29.07.2020.



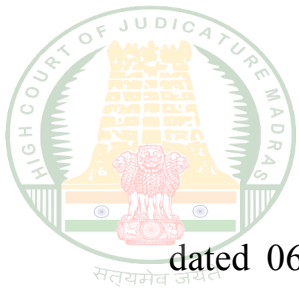
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7. Thereafter, the 2nd respondent, without issuing any notice or affording an opportunity of hearing, blacklisted the appellant. This action was challenged in W.P.(MD) No. 24403 of 2024, which was dismissed. Subsequently, the appellant filed a writ appeal in W.A.(MD) No. 2359/2024. The Division Bench of this Hon'ble Court partly allowed the appeal and directed the 2nd respondent to provide the appellant an opportunity to file objections with relevant documents, to conduct a proper enquiry, and pass a reasoned order within four weeks.

8. Despite the above directions, the enquiry committee report dated 12.09.2024, which forms the basis of the impugned blacklisting order was never furnished to the appellant. Consequently, the appellant filed W.P. (MD).No. 29852 of 2024 seeking the said report. However, the Writ Court dismissed the petition. Aggrieved by the same, the appellant preferred a writ appeal in W.A.(MD) No. 2618/2024. The Hon'ble Division Bench, by order dated 18.12.2024, allowed the appeal and directed the 2nd respondent to furnish the report and conduct a proper enquiry.

9. Pursuant to the above, the 2nd respondent issued an enquiry notice



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dated 06.01.2025, received by the appellant on 08.01.2025, directing her to attend the enquiry on 10.01.2025. On the said date, the appellant sought an adjournment, as the full copy of the enquiry report had not been furnished, and several pages of the report were illegible. However, without considering her request or granting an opportunity of hearing, the 2nd respondent proceeded to pass the blacklisting order on 10.01.2025, setting the appellant ex parte.

10. The said blacklisting order was challenged in W.P.(MD).No. 3829 of 2025, wherein the Hon'ble Single Judge disposed of the matter by referring it to a Sole Arbitrator. This order is under challenge in the present appeal.

11. Mrs.N.Krishnaveni, learned Senior counsel appearing for the appellant would submit that although the order in W.P.(MD).No. 3829 of 2025 was passed by the learned Single Judge with the consent of counsel, the matter is not one arising out of an arbitral dispute. This position was also affirmed in W.P.(MD) No. 24403 of 2024. Nevertheless, an arbitrator was named with the purported consent of counsel. The appellant subsequently filed a review petition, which was dismissed, giving rise to the present writ appeal.



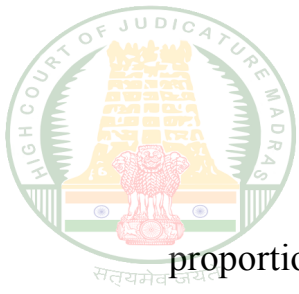
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12. The learned Senior counsel for the appellant contended that the writ court wrongly considered blacklisting as an arbitration issue and referred the matter to arbitration which is illegal since the availability of alternative remedy does not bar the invocation of writ jurisdiction. It is also submitted that the Writ Court overlooked the appellant's denial in respect of their staff Rohini's signature in the dispatch memo. Further, the Writ Court observed that the plea of appellant's counsel that two days time was insufficient to submit their reply can also be raised before the Arbitrator, is not sustainable.

13. The learned Senior Counsel for the appellant further contended that the order of blacklisting dated 10.01.2025 passed by 2nd respondent by setting her exparte was based on mere allegations without any criminal charge or complaint against the appellant is contrary to clause 12 of the Hulling agreement.

14. The learned Senior counsel for the appellant submitted that the impugned order of blacklisting, being indefinite and lifelong, is contrary to the settled law laid down by the Hon'ble Supreme Court in **M/s. Chauhan Builders Raibareli vs The State of Uttar Pradesh & Others reported in (2022 LiveLaw SC 694)**, which mandates that such penalties must be



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proportionate and time-bound. The order also infringes the appellant's fundamental right under Article 19(1)(g) of the Constitution of India to carry on her lawful profession. Furthermore, the impugned action violates the principles articulated in

A) Re Umc Technologies Pvt. Ltd. v. FCI and another [(2021) 2 SCC 551]

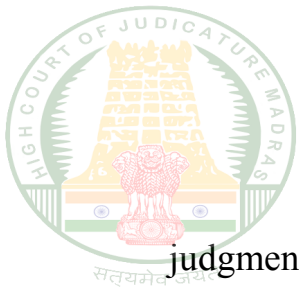
B) Daffodills Pharmaceuticals Ltd. And another vs. State of U.P and another, reported in [(2020) 18 SCC 550,]

C) Re Kulja Industries Ltd. Vs. Chief General Manager, Western telecom Project BSNL [(2014) 14 SCC 731.]

which underscores the necessity of adherence to due process and proportionality in blacklisting decisions.

15. It is further contended by the learned Senior counsel that the invocation of Clause 12 of the agreement is also legally untenable, as the 2nd respondent acted mechanically and solely on the 1st respondent's direction, without arriving at any independent finding of malafide or malpractice on the appellant's part. Hence, the order of blacklisting is liable to be set aside as arbitrary, ultra vires, and in violation of constitutional and statutory safeguards.

16. The learned Senior counsel for the appellant relied on the



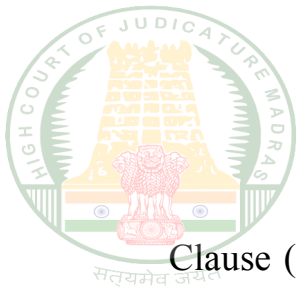
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judgments cited below to substantiate the appellant's case. In particular, the

Supreme Court in **M/s.Techno Prints v. Chhattisgarh Textbook Corporation, (2025 INSC 236)**, emphasized that blacklisting is a drastic power that must be exercised only with strong, independent, and overwhelming material. Further, the Supreme Court in **Krishnadatt Awasthy Vs State of M.P reported in (2025 (1) MLJ 673)**, held that denial of justice at the initial stage can be cured by an appellate body, reinforcing the need for adherence to natural justice principles.

17. It is also stated that the appellant has suffered severe financial loss over the past seven months, including business losses of Rs.15 lakhs/month, and fixed HT electricity charges of Rs.6 lakhs/month, without any work allocation. In light of these facts and legal principles, the order of blacklisting passed by the 2nd respondent, is arbitrary, disproportionate, and legally unsustainable.

18. Mr.R.Baskaran, learned Additional Advocate General appearing for the respondents would submit that any order passed by the Regional Manager/2nd respondent is appealable to the Chairman and Managing Director of Tamil Nadu Civil Supplies Corporation/1st respondent. Further, as per



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Clause (37) and (44) of the agreement entered into between the appellant and the Tamil Nadu Civil Supplies Corporation, any dispute that arises between the parties should be referred to arbitration by a sole arbitrator, appointed from the panel of arbitrators maintained by the Corporation.

19. The learned Additional Advocate General would also submit that since Clause 42 of the Agreement provides for appellate remedy, it is always open to the appellant to avail the appellate remedy, instead of invoking Article 226 of the Constitution of India.

20. We heard and considered the submissions of the learned senior counsel for the appellant and the learned Additional Advocate General for the respondents and examined the materials on record.

21. The principles of natural justice as derived from common law which guarantee 'fair play in action', has two facets which include rule against bias and the rule of fair hearing. Additionally, a reasoned order has also been regarded as a third facet of the principles of natural justice and holds utmost significance in ensuring fairness of the process.



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22. It is pertinent to note that the crux of the matter not merely lies on the aspects of the facts that the issue regarding whether 400 paddy bags were received by the appellant mill or not and whether the input registers verified and signed by the 2nd respondent confirms that no paddy was received by the appellant mill is true or not, for which the dispute came to be referred to a sole arbitrator by the learned Single judge based on the clause 44 of the agreement entered into by the parties between them and on consent rendered in the course of proceedings but also the substantive question of whether such an arbitration clause can oust the jurisdiction of this Hon'ble Court under Article 226, especially when the impugned order of blacklisting by the 2nd respondent is ex facie arbitrary, disproportionate and violative of fundamental principles of Natural justice.

23. The fact that appears from the impugned order passed by the learned Single Judge is that based on the clauses of the hulling agreement and the interpretation of the said agreement used therein and pointing out clause (44) of the agreement that "any dispute arising in respect of this agreement" shall be referred to arbitration and to be decided by a sole arbitrator, the learned Single Judge concluded that the words "any dispute" are wide enough to cover the blacklisting of the appellant/petitioner and thereby ordered the writ



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petition by referring it to the arbitration and directed the parties to appear before the sole arbitrator.

24. On the backdrop of the aforesaid facts and submissions so advanced, we are of the view that, with respect to the impugned blacklisting order passed by the 2nd Respondent, the necessity of compliance with the principle of natural justice by giving an opportunity to the person against whom action of blacklisting is sought to be taken, has a valid rationale behind it.

25. It is settled law that the object of observing the principles of natural justice is to ensure that “every person whose rights are going to be affected by the proposed action gets a fair hearing.” In this case, based on mere allegations without criminal charge for the case of blacklisting, the appellant was imposed with the gravest punitive penalty of blacklisting for life without any specific time period despite the forfeiture of Rs. 4,41,000/- towards the value of the 400 missing bags of paddy. This would definitely amount to ultimate blow to existence of both appellant and its employees livelihood, which is violative of fundamental right enshrined in our Constitution of India.



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26. With respect to the arbitration clause for resolving the disputes between the appellant and the respondents in respect of their agreement, before the arbitrator is concerned, it is useful to refer to the judgment of the Hon'ble Supreme Court in the case of *Whirlpool Corporation. v. Registrar of Trade Marks [(1998) 8 SCC]*, wherein it is held that the power of the High Courts to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution and therefore, the High Courts, having regard to the facts of the case, have the discretion to entertain or not to entertain a writ petition. The Supreme Court held that the High Courts have imposed upon themselves certain restrictions, including existence of an effective and efficacious alternative remedy. The Supreme Court further went on to hold that presence of an alternative remedy would not operate as a bar in at least three contingencies, namely (i) where the writ petition is filed for enforcement of any of the fundamental rights; or (ii) where there is a violation of the principle of natural justice; or (iii) where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged.

27. The [Calcutta High Court, in the decision in Union Of India And Ors vs Anil Bareja And Anr on 23 August, 2024](#), dealt with termination of



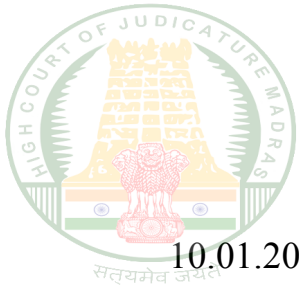
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an agreement, forfeiture of a security deposit and imposing a bar in participating in future tender by the Railway Administration and held that flagrant violation of principle of natural justice and contravention of the Fundamental Rights is arbitrary. It is also held that the law [laid down in UMC Technologies Private Ltd.](#) can be gainfully applied where it has been held that before a person is blacklisted, the adherence of principle of natural justice is inevitable or in other words mandatory in the following:

"19. In light of the above decisions, it is clear that a prior show-cause notice granting a reasonable opportunity of being heard is an essential element of all administrative decision-making and particularly so in decisions pertaining to blacklisting which entail grave consequences for the entity being blacklisted. In these cases, furnishing of a valid show-cause notice is critical and a failure to do so would be fatal to any order of blacklisting pursuant thereto."

28. In the light of the above settled principles of law, this court is of the view that it is paramount to set aside the impugned order passed by the 2nd respondent which is punitive in nature and it is viewed as a punishment so grave, that it must follow in the wake of an action that is equally grave and that without giving an opportunity of hearing, there cannot be any order of blacklisting.

29. In view of our conclusion that the blacklisting order dated



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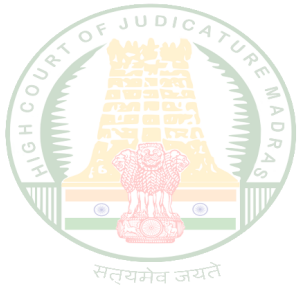
10.01.2025 passed by the 2nd respondent is contrary to the principles of natural justice, we deem it appropriate to remit the matter to the respondents for fresh consideration. The respondents shall afresh issue notice of hearing to the appellant and the appellant shall participate in the enquiry proceedings on the date of hearing and furnish all documents necessary to substantiate their stand. The respondents, after confirming with the principles of natural justice and considering the issue in detail in enquiry, shall pass necessary orders.

30. For the foregoing reasons, this writ appeal is allowed on the above terms. The order dated 17.02.2025 passed in W.P.(MD).3829 of 2025 is set aside. The 2nd respondent order dated 10.01.2025 is hereby quashed confining only in so far as it blacklists the appellant. No costs. Consequently, connected miscellaneous petitions are closed.

(J.NISHA BANU, J) (S.SRIMATHY, J.)

29.04.2024

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J. NISHA BANU, J.
and
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After pronouncement of the above order, Mrs.N.Krishnaveni, learned counsel appearing for the appellant made a mention that since the matter has been set aside, she prayed for supply of paddy and re-opening the Mill.

2.In view of the abovesaid submission, since this Court has allowed the Writ Appeal, the respondents are directed to open the Mill and supply of paddy so that the appellant's Mill shall function. Any decision shall be taken, after the enquiry is completed.

ps

(J.N.B.,J.) (S.S.Y.,J.)

29.04.2025



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To

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation
No.12,Thambusamy Street
Kilpauk,
Chennai-600 010

2.The Sub Collector/Regional Manager
Tamil Nadu Civil Supplies Corporation
Madurai Region, Madurai.



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Judgment in

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