

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19600 of 2016

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M/s Supreme Enterprises a company having its Registered Office at East Ashok Nagar, Road No. 14(B) Kankarbagh, Patna. Bihar through its Authorized Representative Mr. Harsh Vardhan Singh.

.... Petitioner

Versus

1. The State of Bihar through its Principal Secretary, Urban Development and Housing Department , New Secretariat, Patna
2. District Magistrate, Bihar Sharif at Nalanda.
3. Municipal Commissioner cum Chief Executive Officer, Bihar Sharif Municipal Corporation , Bihar Sharif at Nalanda
4. Additional Commissioner, Bihar Sharif Municipal Corporation, Bihar Sharif at Nalanda.
5. Mayor, Bihar Sharif Municipal Corporation, Bihar Sharif at Nalanda.

.... Respondents

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Constitution of India – Article 226

Bihar Standing Committee Rules, 2010

Petitioner is aggrieved with the impugned order of blacklisting of his firm for indefinite period in contrary to the principles laid down in Kulja Industries Ltd. Vs. Chief General manager, Western telecom Project, Bharat Sanchar Nigam Ltd. and Ors; (2014)14 SCC 731

Ld. Counsel for the state did not controvert the fact that the blacklisting has been made for indefinite period.

Impugned is quashed and the matter be remanded to the municipal commissioner for taking a fresh decision in the matter after grant of reasonable opportunity to the petitioner of being heard.

Petitioner shall be at the liberty to raise all points.

[para 4,6]

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.... Respondents

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Appearance :

For the Petitioner/s : Mr. Anurag Saurav, Adv

For the Respondent/s : Mr. ABBAS HAIDAR-SC6

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-01-2018

I.A. No. 9748 of 2016

This Interlocutory Application has been filed for amending the prayer in the writ petition by adding the following relief:-

”(c) Quashing of memo bearing Memo No. 5976 dated 14.12.2016 issued by Municipal Commissioner, Bihar Sharif Municipal Corporation whereby and whereunder the respondent Corporation blacklisted the petitioner’s firm with *mala fide* intention and the abovementioned order has been passed even after supply of the material and during the entire supply process the Corporation themselves provided the delayed registration certificate for



transportation of vehicle and caused delay while conducting inspection and at last the petitioner had to make a third party inspection and completed the supply work and apart from the respondent Corporation without terminating the amended work order, passed the order of blacklisting and much prior to the termination order the petitioner had purchased the chassis for the equipment and the petitioner proceeded with the supply work with the consent of the respondent Corporation appear from the fact that the petitioner submitted their show cause reply along with annexures on 10.12.2016 and the order was passed on 14.12.2016.”

2. Having regard to the nature of the prayer I.A. No. 9748 of 2016 is allowed and treated as forming part to the writ petition.

C.W.J.C. NO. 19600 of 2016

3. The main writ petition has been filed for the following reliefs:-

(a) For quashing of the letter bearing No.5633 dated 11.11.2016 issued by the Municipal Commissioner, Bihar Sharif Municipal Corporation whereby and whereunder the respondent no. 3 issued show cause to the petitioner asking as to why the petitioner's organization should not be blacklisted by the respondent corporation from participating future tenders, as the petitioner failed to supply the equipment namely, LCV Chassis mounted Access Platform (Skylift) issued vide letter No. 3664 dated 29.06.2016 and the above mentioned show cause notice for blacklisting was issued without considering the facts that the



petitioner's equipment is ready for supply and is lying at the petitioner's workshop only for the purpose of inspection by the respondent corporation and even after knowing all the facts the respondent corporation had taken decision with a mala fide intention to terminate the work order of the petitioner and blacklist the petitioner for future tenders.

(b) For issuance of any other relief or reliefs.

4. Learned counsel for the petitioner raises two main grounds to assail the impugned order of blacklisting mainly (a) that the petitioner has been placed in the blacklist for an indefinite period, which is contrary to the principles laid down in *Kulja Industries Limited vs. Chief General Manager, Western Telecom Project, Bharat Sanchar Nigam Limited and others*, (2014) 14 SCC 731 and (b) that the Municipal Commissioner was not the competent authority to pass order of blacklisting in view of the Bihar Standing Committee Rules, 2010, according to which the executive power of the Municipal Corporation vests in the Standing Committee.

5. Learned counsel for the respondent relies on the counter affidavit to oppose the writ petition but, however, unable to controvert the stand of the petitioner that the blacklisting has been made for an indefinite period. It is further submitted that from perusal of the impugned order of blacklisting itself it will be evident that the Board of the Municipal Corporation had taken a decision in that regard.



6. Be that as it may, this Court is of the view that the ends of justice will be met if the impugned order dated 14.12.2016 (Annexure-11) is quashed and the matter remanded to the Municipal Commissioner, Bihar Sharif Municipal Corporation for taking a fresh decision in the matter after grant of reasonable opportunity to the petitioner of being heard in the matter.

7. It is made clear that the petitioner shall be at liberty to raise all points including with regard to the jurisdiction of the Municipal Commissioner to pass the order of blacklisting.

8. The writ petition stands disposed of as above.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.01.2018
Transmission Date	NA

