
(2011) 02 KL CK 0105

In the High Court Of Kerala

Case No : Writ Petition (C) No. 5956 of 2011 (T)

Ambili B.

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 25-02-2011

Acts Referred:

Citation : (2011) 02 KL CK 0105

Hon'ble Judges : P.N.Ravindran, J

Bench : Single Bench

Advocate : Ajith Krishnan, for the Appellant; No appearance, for the Respondent

Final Decision : Allowed

Judgement

P.N. Ravindran, J.—The Petitioner is a registered PWD Contractor. The work of clearing the side drain, removing the waste earth and dumped earth etc. at Chalai Bye pass road was awarded to the Petitioner by the fifth Respondent. After the work was executed and the check measurement was done, the fourth Respondent black listed the Petitioner and communicated the said decision to the Petitioner by Ext.P3 letter dated 22.2.2010. Aggrieved thereby, the Petitioner filed W.P.(C) No.27271 of 2010 in this Court. By Ext.P4 judgment delivered on 3.9.2010, this Court set aside Ext.P3 letter on the ground that before the Petitioner was black listed, she was not put on notice or heard. This Court also directed that it will be open to the State of Kerala or any competent officer of the Public Works Department to issue notice to the Petitioner intimating her of the grounds for the proposed black listing, given her an opportunity to make her representation and pass fresh orders in accordance with law. Pursuant to Ext.P4 judgment, the third Respondent issued Ext.P5 notice dated 6.12.2010 requesting the Petitioner to appear for an hearing at 11.30 a.m. on 14.12.2010 in his office. The Petitioner appeared as directed. An hearing was also held on 14.12.2010. Thereafter, Ext.P6 order dated 31.1.2011 was issued blacklisting the Petitioner. Ext.P6 is under challenge in this writ petition.

2. The main ground raised by the Petitioner is that though this Court had in Ext.P4 judgment directed that the grounds for the proposed black listing should be furnished to the Petitioner and she should be given an opportunity to make her representation in the matter, this time also the grounds on which the decision was taken to black list the Petitioner was not communicated to her either before the hearing or at the time of hearing, and therefore, Ext.P6 order is liable to be set aside.

3. I heard Sri. Ajith Krishnan, learned Counsel appearing for the Petitioner and Sri.P. Narayanan, learned Government Pleader appearing for the official Respondents. I have also gone through the pleadings and the materials on record. The Petitioner was initially black listed by Ext.P3 order dated 22.2.2010. Before the said decision was taken, she was not put on notice or heard. The reason why she was black listed was also not communicated to him. The only reason stated therein was that the Finance Department has directed to black list her. This Court quashed the said order and permitted the competent authority to issue notice to the Petitioner, intimate her of the grounds for the proposed black listing, give her an opportunity to represent against the proposal and to pass fresh orders in accordance with law. Even thereafter though the notice was issued to the Petitioner, the reasons were not stated. Even during the hearing, no reason was communicated to the Petitioner. The impugned order also does not set out the grounds on which action was taken to black list the Petitioner. Apart from stating that the Petitioner has failed to prove that the charges levelled are baseless, what are the charges which she was required to answer are not stated. In such circumstances, it has necessarily to be held that Ext.P6 order passed by the Superintending Engineer cannot be sustained.

I accordingly allow the writ petition and quash Ext.P6 order. The Government shall in view of the fact that officers at different levels have twice passed orders which have been interfered with by this Court, examine the issue and take an appropriate decision in the matter.