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**(2016) 08 JH CK 0076**

**In the Jharkhand High Court**

**Case No : Writ Petition (Civil) No. 1808 of 2016**

Md. Iftikar Alam

APPELLANT

Vs

The S.P., C.B.I.

RESPONDENT

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**Date of Decision : 22-08-2016**

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation : (2016) 4 JBCJ 19**

**Hon'ble Judges : Mr. Aparesh Kumar Singh, J.**

**Bench : Single Bench**

**Advocate : Mr. Niranjan Kumar, Advocate, for the Petitioner; Mr. Kailash Pd. Deo, Advocate, for the C.B.I; Mr. A.K. Das, Advocate, for the C.C.L**

**Final Decision : Allowed**

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## **Judgement**

Mr. Aparesh Kumar Singh, J.— Heard counsel for the parties.

2. Petitioner is the proprietor of B.D. Enterprises, Kathara, Bokaro who has been blacklisted by impugned order dated 13th January 2015 (Annexure-1) issued by the General Manager (S&M), Central Coalfields Ltd., Darbhanga House, Ranchi on the ground that during investigation by CBI in F.I.R. RC 06(A)/2013-D registered on 25th March, 2013 alleging conspiracy regarding misappropriation and fraudulent sale of coal rejects of certain value, the firm was found to have failed to ensure non-misutilisation of sale order issued to them for illegally lifting excess/unauthorized coal material. The C.B.I., A.C.B., Dhanbad had recommended blacklisting of the firm M/s. B.D. Enterprises, Kathara which is the basis for passing the impugned order of blacklisting.

3. Petitioner relies upon the judgment passed in Cr.M.P. No.272 of 2015 dated 10th December, 2015 where under the learned Single Judge of this Court was pleased to quash the order dated 21st January, 2015 passed by learned 1st Additional Sessions Judge cum Special Judge, CBI, Dhanbad in connection with RC 06(A)/2013-D taking cognizance of the offence under Sections 120B, 409,

420, 468, 471 and 477A of the Indian Penal Code read with Sections 13(2) and 13(1)(c) and (d) of the Prevention of Corruption Act, 1988. Additionally, it is also urged by referring to the statements made at para-14 of the writ petition that no show-cause was issued before blacklisting to the petitioner. Therefore, he has approached this Court for quashing of impugned order of blacklisting.

4. Counsel for the respondent-CCL has filed counter affidavit and stated that impugned action has been taken on the recommendation of the CBI where petitioner and other staff officers of the Kathara Washery of CCL connived with the private parties and other accused persons with a view to defraud CCL and dispatched reject and slurry aggregating 2500 MT from Kathara Washery area without realising the sale value of Rs.4 crores causing wrongful loss to the CCL and corresponding gain to the private parties. It is submitted that enquiries were also made by the Vigilance Section of CCL. Learned counsel for the respondent-CCL, however, has not been able to dispute the contention of the petitioner that no show-cause or notice was issued prior to the order of blacklisting. Statements made at para-14 of the writ petition have not been categorically refuted by statements at para-20 of the counter affidavit.

5. Counsel for the respondent-CBI submits that the pleadings and the documents enclosed to the writ petition are lacking in necessary documents to substantiate the contention of the petitioner that it was only the recommendation of the CBI which was the basis of blacklisting.

6. Having considered the rival pleas of the parties in the light of the material facts pleaded, it is apparent that apart from the contention relating to quashing of the order of cognizance by the Special Judge, CBI in criminal case instituted against the petitioner by the Court in Cr.M.P. No.272 of 2015 he has not been issued any notice or show-cause before the order of blacklisting has been passed. In that way, the order of blacklisting is in violation of principle of natural justice and cannot be upheld in the eye of law. Accordingly, it is quashed. However, respondent-CCL is at liberty to take a fresh decision in the matter after due notice and show cause to the petitioner.

7. The writ petition is allowed in the manner and to the extent indicated herein above.