
(1999) 04 RAJ CK 0020
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1269/99

Mohan Lal Bishnoi

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 09-04-1999

Acts Referred:

Constitution of India, 1950 — Article 14, 19, 226

Citation : AIR 1999 Raj 303 : (1999) 3 RLW 1373 : (2000) 1 WLC 116 : (1999) 1 WLN 506

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Advocate : J.L. Purohit, for the Appellant;

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—Regarding an incident of manhandling Shri Laxmikant Suthar, Junior Engineer and Staff on duty on 13-10-98 during the afternoon hours and obstructing them from discharging their duties, the petitioner-contractor was blacklisted by the impugned order dated 21-12-98 at Annexure 6. Before passing that order the petitioner filed a civil suit and as application for interim injunction that he should not be black-listed. During the pendency of the suit the petitioner was blacklisted by the aforesaid order. Initially the Civil Court kept the order of black listing the petitioner in abeyance and subsequently vacated the same. However, the order passed by the Court keeping the order in abeyance was continued till 9-4-99 with a view to enable the petitioner to approach the Court for obtaining appropriate order. Before this petition the petitioner had filed a revision petition No. 360/99 before this Court which was dismissed by my learned brother Mr. R. R. Yadav, J. on 7-4-99. Thereafter, this petition was moved.

2. In para 23 of this petition it has been stated by the petitioner that the petitioner has no other alternative remedy except by way of this writ petition before this Court. The same statement is absolutely false. The petitioner had better alternative and efficacious remedy by way of suit before the Civil Court. In

fact, before passing of the impugned order of black listing the petitioner, the petitioner did file a suit on apprehension that he was likely to be blacklisted. It is a different matter that his injunction application was dismissed and later on this Court has also dismissed the revision petition filed by the petitioner challenging the orders passed by the Court below. Thus, it cannot be said that the petitioner had no alternative and efficacious remedy. Thus, for making false and incorrect statement in para 23 of the petition this writ petition is required to be dismissed.

3. On merits also the petitioner has no case. The submission of Mr. Purohit, learned Counsel for the petitioner, is that before passing the impugned order of blacklisting the petitioner, the petitioner was not personally heard. Hence, the impugned order is illegal and liable to be set aside. In support of his submission he relied upon a Supreme Court Judgement in the case of Erusian Equipment and Chemicals Ltd. Vs. State of West Bengal and Another, I am afraid that this submission of Mr. Purohit cannot be accepted for the simple reason that, in that case admittedly an opportunity was not given to the petitioner. Whereas in this case, before passing the impugned order the petitioner was called upon to show cause as to why he should not be blacklisted by the show cause notice dated 3-11-98 at Annexure 2. The petitioner filed a detailed written reply on 6-11-98 at Annexure 3 and tried to show cause. After considering the explanation offered by the petitioner in his reply the Chief Engineer was not satisfied with his reply, therefore, he passed the impugned order of blacklisting the petitioner.

4. Thus, on the facts of this case it cannot be stated that the petitioner was not offered any opportunity. Mr. Purohit tried to submit that the petitioner should have been also offered a personal hearing. There is no such provision for giving personal hearing. That apart in the written reply submitted by the petitioner even no such prayer was made to offer personal hearing. In that view of matter, this submission of Mr. Purohit cannot be accepted.

5. Mr. Purohit has then tried to challenge the impugned order of blacklisting the petitioner on facts by submitting that the petitioner was not guilty for manhandling or obstructing the Junior Engineer and his staff. I am afraid this Court cannot sit in appeal over the decision of the Chief Engineer whereby the petitioner was blacklisted. In my humble opinion, it is not the scope of writ jurisdiction. However, I am of the opinion that the allegations made against the petitioner are of such nature where no other decision could have been arrived at except blacklisting the petitioner.

6. In view of the above discussions, I do not see any substance or merits in this petition. Accordingly, this petition is dismissed.