
(2021) 07 UK CK 0026

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 1284 Of 2020

Nawab Ali

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 05-07-2021

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2021) 07 UK CK 0026

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : Sarvesh Agarwa, T.S. Phartiyal, Siddhartha Manral

Final Decision : Partly Allowed

Judgement

Manoj K. Tiwari, J

1. Petitioner is a Contractor, who was registered with Nagar Panchayat Kelakheda, District Udham Singh Nagar. Contract for civil construction work was awarded to the petitioner by Nagar Panchayat Kelakheda.

2. According to the petitioner, the amount due to the petitioner has not been paid, therefore, he has approached this Court seeking a direction to respondent nos. 3 & 4 to make payment of the outstanding dues. Petitioner is also aggrieved by the order dated 25.07.2020 passed by Executive

Officer, Nagar Panchayat Kelakheda, which is on record as annexure 10 to the writ petition. By the said order, petitioner's registration with

Nagar Panchayat Kelakheda was cancelled and petitioner's name was included in the blacklist, maintained by Nagar Panchayat Kelakheda.

3. In para 13 of the writ petition, it has been categorically stated that the order dated 25.07.2020, whereby petitioner's registration was cancelled

and his name was included in the blacklist, was passed without providing any opportunity of hearing to the petitioner.

4. There is no specific denial to the said pleading in the counter affidavit filed by Executive Officer, Nagar Panchayat Kelakheda on behalf of

respondent nos. 3 & 4. What has been stated in para 32 of the counter affidavit is that petitioner was heard by the Investigation/Enquiry Committee

and after conclusion of the investigation, petitioner was prima facie found guilty and respondent no. 1 â" Director, Urban Development Directorate,

Dehradun directed the Nagar Panchayat Kelakheda to take necessary action against the petitioner.

5. Mere participation by petitioner in the investigation process will not be sufficient for passing the blacklisting order behind his back. Investigation, if

any, is made to ascertain facts, as in the case of preliminary enquiry. Investigation was ordered by State Government based on a complaint.

Petitionerâs participation in preliminary or fact finding inquiry will not be sufficient to pass an order of blacklisting and cancellation of registration

against him without hearing him.

6. Mr. T.S. Phartiyal, learned Additional C.S.C. for the State has also supported the impugned order by referring to a letter dated 01.10.2018 issued by

District Magistrate to Director, Urban Development. Based on the said letter, learned counsel for the State submits that petitioner had participated in

the enquiry before three Members Committee.

7. As stated above, mere participation before Enquiry Committee by the petitioner will not denude him of his right to be heard in the matter. The

investigation was ordered by the State Government, while the order of blacklisting/cancellation of registration has been passed by Executive Officer of

the Nagar Panchayat. It was incumbent upon the Executive Officer to provide reasonable opportunity of hearing to the petitioner before passing the

impugned order, which has civil and evil consequences to the petitioner.

8. In such view of the matter, writ petition is partly allowed. The impugned order dated 25.07.2020 by which petitionerâs registration was

cancelled is liable to be quashed and is hereby quashed. However, this will not preclude the Competent Authority from passing order afresh, in

accordance with law, after hearing the petitioner.

9. As far as the second relief is concerned, it involves disputed questions of fact

which cannot be adjudicated under writ jurisdiction of this Court under Article 226 of the Constitution of India. Accordingly, prayer no. (ii) is rejected. However, petitioner shall be at liberty to approach the Arbitrator or the competent Civil Court, as the case may be, for seeking the said relief.