

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (C) No. 01 of 2021

Vijeta Projects and Infrastructure Ltd.
having Regd. Office at Morabadi Grounds, P.O. Ranchi University,
P.S. Bariatu, District Ranchi,
through one of its Director, Mr. Ravindra Bharti,
son of Sri Yogendra Prasad Singh, aged about 46 years,
resident of Qr. No. R-25/5, Harmu Housing Colony,
P.O. Doranda, P.S. Argora, District-Ranchi

.... ... **Petitioner**

Versus

1. The State of Jharkhand
through Chief Secretary, Government of Jharkhand,
at Project Building, P.O. Dhurwa, P.S. Jagarnathpur,
District-Ranchi
2. Secretary, Jharkhand State Building Construction Department,
Government of Jharkhand, at Project Building, P.O. Dhurwa,
P.S. Jagarnathpur, District-Ranchi
3. Principal Secretary, Department of Health, Medical Education & Family
Welfare, at Project Building, P.O. Dhurwa, P.S. Jagarnathpur,
District-Ranchi
4. Executive Director, Jharkhand State Building Construction Corporation
Ltd., Government of Jharkhand, at Project Building, P.O. Dhurwa,
P.S. Jagarnathpur, District-Ranchi
5. Executive Engineer, Jharkhand State Building Construction Corporation
Ltd, Government of Jharkhand, at Project Building, P.O. Dhurwa,
P.S. Jagarnathpur, District-Ranchi
6. Chairman-cum-Managing Director,
Heavy Engineering Corporation Dhurwa, Ranchi
7. Director, Personnel,
Heavy Engineering Corporation Dhurwa, Ranchi

... ... **Respondents**

CORAM: HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE NAVNEET KUMAR

For the Petitioners	: Mr. Ajit Kumar, Sr. Advocate : Mr. Indrajit Sinha, Advocate : Mr. Rohitashya Roy, Advocate
For the Respondents	: Mr. Mohan Kumar Dubey, A.C. to A.G.

25th June 2024

Per, Shree Chandrashekhar, A.C. J.

Vijeta Projects and Infrastructure Ltd. is aggrieved by the order dated 24th September, 2020 by which it was debarred from participating in any future Tender floated by the State of Jharkhand.

2 The proceedings in this writ petition spanned over twenty-five listings in the Court and in the meantime the work under the NIT dated 3rd August, 2017 for 500-bedded Sadar Hospital (with ward) at Ranchi was completed by the petitioner-Company. This is also reflected in the order dated 14th May, 2024 that a statement was made in the Court that the work has been completed by the petitioner-Company.

3. The short question involved in this case is whether the order of debarment dated 24th September, 2020 can sustain a scrutiny in law as to its validity for the reason that the show-cause notice dated 14th September, 2020 did not reflect the proposed action against the petitioner-Company.

4. Mr. Ajit Kumar, the learned Senior Counsel for the petitioner-Company refers to “*UMC Technologies Private Limited v. Food Corporation of India and Another*” (2021) 2 SCC 551 to submit that the order of debarment dated 24th September, 2020 was issued in breach of natural justice inasmuch as the show-cause notice was completely silent as to the proposed order of debarment. The learned Senior Counsel criticizing the order of debarment would further submit that any order of debarment for an indefinite period must be held unjust, unreasonable and arbitrary.

5. In “*Kulja Industries Limited v. Chief General Manager, Western Telecom Project Bharat Sanchar Nigam Limited and Others*” (2014) 14 SCC 731 the Hon’ble Supreme Court held that the order of black listing / debarment cannot be for an indefinite period but the period of debarment shall depend on the nature of misconduct / lapse by the erring contractor. In “*Kulja Industries*” the Hon’ble Supreme Court held as under:

“25. Suffice it to say that “debarment” is recognised and often used as an effective method for disciplining deviant suppliers/contractors who may have committed acts of omission and commission or frauds including misrepresentations, falsification of records and other breaches of the regulations under which such contracts were allotted. What is notable is that the “debarment” is never permanent and the period of debarment would invariably depend upon the nature of the offence committed by the erring contractor.”

6. It is quite a settled law that any administrative order which ensues serious civil consequences shall be issued after complying the

requirements of natural justice. By not indicating the proposed action in the show-cause notice dated 14th September 2020, the petitioner-Company was deprived of an opportunity to persuade the employer not to pass the order of debarment. In any event, on completion of the work under the NIT, the ground on which the order of debarment was issued no longer survives and for that reason also the debarment order dated 24th September, 2020 cannot be sustained.

7. In “*UMC Technologies Private Limited*” the Hon’ble Supreme Court held as under:

“25. The mere existence of a clause in the bid document, which mentions blacklisting as a bar against eligibility, cannot satisfy the mandatory requirement of a clear mention of the proposed action in the show-cause notice. The Corporation's notice is completely silent about blacklisting and as such, it could not have led the appellant to infer that such an action could be taken by the Corporation in pursuance of this notice. Had the Corporation expressed its mind in the show-cause notice to blacklist, the appellant could have filed a suitable reply for the same. Therefore, we are of the opinion that the show-cause notice dated 10-4-2018 does not fulfil the requirements of a valid show-cause notice for blacklisting. In our view, the order of blacklisting the appellant clearly traversed beyond the bounds of the show-cause notice which is impermissible in law. As a result, the consequent blacklisting order dated 9-1-2019 cannot be sustained.”

8. For the foregoing reasons, the order dated 24th September 2020 is set aside. Consequently, the W.P. (C) No. 01 of 2021 is allowed.

9. I.A. No. 2413 of 2021, I.A. No. 2513 of 2021, I.A. No. 6077 of 2021, I.A. No. 10180 of 2022 and I.A. No. 10535 of 2023 stand disposed of.

(Shree Chandrashekhar, A.C.J.)

D.S.

(Navneet Kumar, J.)