

HIGH COURT OF ORISSA: CUTTACK

W.P.(C) No.10647 of 2014

In the matter of an application under Article 226 of the Constitution of India.

M/s. Mohanty and Associates
& another

....

Petitioners

Versus

Officer on Special Duty
& others

....

Opposite parties

For Petitioners ... Mr. Umesh Ch. Pattnaik, Advocate

For Opp. Parties 2 & 3 ... Mr. Anjan Kumar Jena. Advocate

PRESENT:

THE HONOURABLE DR. JUSTICE A.K.RATH

Date of hearing : 29.09.2014 : Date of judgment : 29.09.2014

Dr. A.K.Rath, J By this writ petition, the petitioners have prayed, inter alia, to quash the punishment of blacklisting and allow them to continue as approved valuers.

2. Bereft of unnecessary details, the short facts of the case of the petitioners are that petitioner no.1 is a partnership firm registered under the Indian Partnership Act, 1932 and petitioner no.2 is the Managing Partner of the said firm. The petitioners were appointed as registered valuer in respect of M/s.East End Engineering Pvt. Ltd. and M/s. Orissa Textile Mills pursuant to the order of the learned Company Judge of this Court. They were empanelled by the State Bank of India and different Nationalized Banks. When no work was assigned to them, petitioner no.2 made an enquiry. He came to know that the firm has been blacklisted by the Indian Banks' Association. Thereafter, an application was made to the Public Information Officer, Circle Office, Punjab National Bank under the provisions of the Right to Information Act for supply of detailed information. On 23.5.2014, the

Public Information Officer, Punjab National Bank supplied information, vide Annexure-11 series, wherein it is evident that the Indian Banks' Association in its letter dated 18.02.2014, found the petitioners guilty in indulging malpractices while submitting their valuation reports to the State Bank of India and blacklisted. By letter dated 11.03.2014, the Deputy General Manager, Recovery Division, Punjab National Bank, opposite party no.2, directed to all the Circle Office not to assign any work to the blacklisted valuers.

3. Pursuant to issuance of notice, a counter affidavit has been filed by the opposite parties. The sum and substance of the case of the opposite parties is that the petitioners were empanelled as a valuer of the opposite parties. An agreement to that effect was entered into between the petitioners and the opposite parties, vide Annexure-A. The Indian Banks' Association reported the names of 25 valuers involved in the fraud. The Head Office Punjab National Bank, New Delhi circulated blacklisted valuers, wherein the name of the petitioners finds place along with others. In view of the same, the Circle Office of the Bank directed all the branches not to assign any valuation to the blacklisted valuers.

4. Heard Mr.U.C.Pattnaik, learned counsel for the petitioners and Mr.A.K.Jena, learned counsel for the opposite parties 2 and 3.

5. Mr.Pattnaik, learned counsel for the petitioners, submits that before blacklisting the petitioners, no opportunity of hearing was provided to them. He further submits that the Indian Banks' Association had never called upon the petitioners to answer the charges levelled against them. The petitioners have been deprived of their vital and valuable rights to defend themselves.

6. Per contra, Mr.Jena, learned counsel for the opposite parties 2 and 3, submits that the Indian Banks' Association had sent a letter on 18.2.2014 to the Chief Executives of all Banks annexing therein the names of 25 valuers who had found guilty for indulging in malpractices while submitting their valuation reports. The name of the petitioners found place in the said list. Basing on the said report, opposite party no.2 directed the Circle Office not to assign any work to the blacklisted valuers.

7. The immortal jurist Roscoe Pound whose 'Jurisprudence' will surpass all ages said of reputation:

"On the one hand there is the claim of the individual to be secured in his dignity and honour as part of his personality in a world in which one must live in society among his fellow men. On the other hand there is the claim to be secured in his reputation as a part of his substance, in that in a world in which credit plays so large a part the confidence and esteem of one's fellow-men may be a valuable asset." (See : "Interest of Personality" – 28 Harvard Law Review, pp. 445, 447).

8. In *M/s. Erusian Equipment and Chemicals Ltd. v. State of West Bengal and another*, **AIR 1975 SC 266**, the apex Court in para-20 of the report held as under :

"20. Blacklisting has the effect of preventing a person from the privilege and advantage of entering into lawful relationship with the Government for purposes of gains. The fact that a disability is created by the order of blacklisting indicates that the relevant authority is to have an objective satisfaction. Fundamentals of fair play require that the person concerned should be given an opportunity to represent his case before he is put on the blacklist."

9. The same view was echoed in *Joseph Vilangandan v. The Executive Engineer (P.W.D.), Ernakulam and others*, **AIR 1978 SC 930** and *Raghunath Thakur v. State of Bihar and others* **AIR 1989 SC 620**.

10. Indisputably, no notice had been given to the petitioners before blacklisting. As the impugned order cast a stigma on the reputation of the petitioners, which is both an interest of personality and an interest of substance and as it is attended with civil consequences, the same should have been proceeded by notice and an opportunity to represent their cases.

In the wake of the aforesaid, the order blacklisting the petitioners is hereby quashed. No costs.

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DR. A.K.RATH, J.

*Orissa High Court, Cuttack.
The 29th September, 2014/PKS.*