



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (C) No. 1203 of 2023**

M/s P.V. Raman Having Its place of Business at Maitri Chhaya, Plot 12, Phase -1, Dhanora, Risali, Bhilai, District Durg, Chhattisgarh and Office at Talpuri, B Block, D.383, Ruabandha, Bhilai, District Durg, Chhattisgarh through its Partner Peri Venkat Raman, Aged about 56 years, S/o Late Shri P.N. Rao, R/o Maitri Chhaya, Plot 12, Phase -1, Dhanora, Risali, Bhilai, District Durg, Chhattisgarh.

---- **Petitioner****Versus**

1. State of Chhattisgarh through Secretary, Department of Urban Administration and Development, Mahanadi Bhawan, Mantralaya, Nava Raipur, Chhattisgarh.
2. Municipal Corporation Risali through its Commissioner, Risali Sector, Bhilai, District Durg, Chhattisgarh.
3. Executive Engineer Municipal Corporation, Risali, Risali Sector, Bhilai, District Durg, Chhattisgarh.
4. Inquiry Committee, Municipal Corporation, Risali, through its President, Risali Sector, Bhilai, District Durg, Chhattisgarh.
5. Mayor-in-council, Municipal Corporation, Risali through its Secretary, Risali Sector, Bhilai, District Durg, Chhattisgarh.

---- **Respondents****Writ Petition (C) No. 1205 of 2023**

M/s P.V. Raman Having Its place of Business at Maitri Chhaya, Plot 12, Phase -1, Dhanora, Risali, Bhilai, District Durg, Chhattisgarh and Office at Talpuri, B Block, D.383, Ruabandha, Bhilai, District Durg, Chhattisgarh



through its Partner Peri Venkat Raman, Aged about 56 years, S/o Late Shri P.N. Rao, R/o Maitri Chhaya, Plot 12, Phase -1, Dhanora, Risali, Bhilai, District Durg, Chhattisgarh.

---- **Petitioner**

Versus

1. State of Chhattisgarh through Secretary, Department of Urban Administration and Development, Mahanadi Bhawan, Mantralaya, Nava Raipur, Chhattisgarh.
2. Municipal Corporation Risali through its Commissioner, Risali Sector, Bhilai, District Durg, Chhattisgarh.
3. Executive Engineer Municipal Corporation, Risali, Risali Sector, Bhilai, District Durg, Chhattisgarh.
4. Inquiry Committee, Municipal Corporation, Risali, through its President, Risali Sector, Bhilai, District Durg, Chhattisgarh.
5. Mayor-in-council, Municipal Corporation, Risali through its Secretary, Risali Sector, Bhilai, District Durg, Chhattisgarh.

---- **Respondents**

Writ Petition (C) No. 1215 of 2023

M/s P.V. Raman Having Its place of Business at Maitri Chhaya, Plot 12, Phase -1, Dhanora, Risali, Bhilai, District Durg, Chhattisgarhe and Office at Talpuri, B Block, D.383, Ruabandha, Bhilai, District Durg, Chhattisgarh through its Partner Peri Venkat Raman, Aged about 56 years, S/o Late Shri P.N. Rao, R/o Maitri Chhaya, Plot 12, Phase -1, Dhanora, Risali, Bhilai, District Durg, Chhattisgarh.

---- **Petitioner**

Versus



1. State of Chhattisgarh through Secretary, Department of Urban Administration and Development, Mahanadi Bhawan, Mantralaya, Nava Raipur, Chhattisgarh.
2. Municipal Corporation Risali through its Commissioner, Risali Sector, Bhilai, District Durg, Chhattisgarh.
3. Executive Engineer Municipal Corporation, Risali, Risali Sector, Bhilai, District Durg, Chhattisgarh.
4. Inquiry Committee, Municipal Corporation, Risali, through its President, Risali Sector, Bhilai, District Durg, Chhattisgarh.
5. Mayor-in-council, Municipal Corporation, Risali through its Secretary, Risali Sector, Bhilai, District Durg, Chhattisgarh.

---- Respondents

For Petitioner :- Mr. Siddharth Dubey, Advocate

For Respondent 1/State:- Mr. Ashish Tiwari, G.A.

For Respondents 2 – 5 :- Mr. Pankaj Agrawal, Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Sanjay K. Agrawal, Judge

Order on Board

Sanjay K. Agrawal, J.

10/04/2023

1. Since common question of law and fact is involved in all these three writ petitions, therefore, they have been heard together, clubbed together and are being decided by this common order. The facts of the case have been taken from the lead case being WPC/1203/2023.

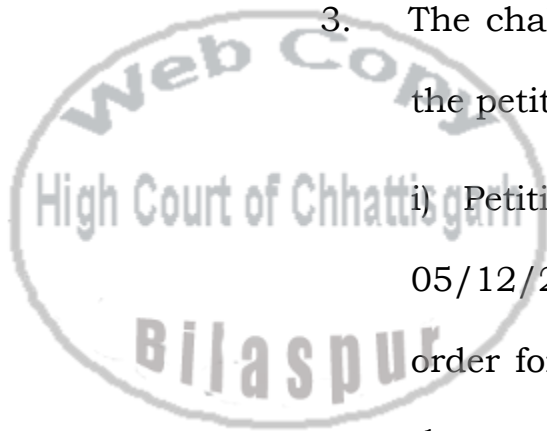


2. This batch of writ petitions has been preferred by the petitioner firm calling in question the legality, validity and correctness of impugned order dated 17/02/2023 (Annexure P/1A) passed by respondent No. 3 – Executive Engineer whereby the work order issued to the petitioner firm for sanitation work on 05/12/2022 (Annexure P/4) has been cancelled on the ground that the petitioner firm filed a false affidavit and obtained the tender for sanitation work despite the fact that it was blacklisted by the Municipal Corporation, Dhamtari.

3. The challenge to the impugned order has been made by the petitioner firm on the following factual backdrop :-

i) Petitioner is a partnership firm and vide order dated 05/12/2022 (Annexure P/4), it had received a work order for sanitation work in certain wards falling within the area of Municipal Corporation, Risali issued by respondent No. 3 – Executive Engineer.

ii) Thereafter, a show-cause notice dated 23/01/2023 (Annexure P/2) was issued to the petitioner firm by respondent No. 4 – Inquiry Committee as to why the work awarded to the petitioner firm should not be cancelled as it had surfaced during the discussion in general assembly of the corporation that petitioner firm had submitted false affidavit and had stated that it was not blacklisted even though it was blacklisted by Municipal Corporation, Dhamtari.





iii) The petitioner firm submitted its reply to the aforesaid show-cause notice on 25/01/2023 (Annexure P/2) stating that it was blacklisted by Municipal Corporation, Dhamtari for participating in any further tender where work related to construction/development and supply of materials was concerned, however, it was not blacklisted from participating in any tender where the work was related to sanitation.

iv) Pursuant thereof, the matter was referred to respondent No. 5 – Mayor-in-Council with inquiry report by the inquiry committee and vide resolution dated 14/02/2023 (Annexure P/1B) it was resolved that the work order issued to the petitioner firm vide order dated 05/12/2022 (Annexure P/4) should be terminated with immediate effect without weighing the reply of the petitioner firm to the show-cause notice and without giving any cogent reason for not accepting the version of the petitioner firm by passing a reasoned and speaking order.

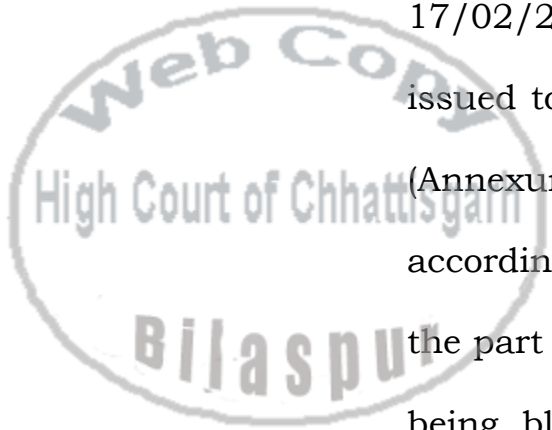
v) Ultimately, on the basis of the aforesaid resolution passed by respondent No. 5 – Mayor-in-Council, impugned order dated 17/02/2023 (Annexure P/1A) has been passed by respondent No. 3 – Executive Engineer cancelling the work order dated 05/12/2022 (Annexure P/4), which has been challenged by the petitioner firm by way of these writ petitions on the ground that the order





impugned has been passed simply relying upon the recommendation/resolution of respondent No. 5 – Mayor-in-Council passed on 14/02/2023 (Annexure P/1B) without passing a reasoned and speaking order and without considering the reply filed by the petitioner firm to the show-cause notice dated 23/01/2023 (Annexure P/2), which is in gross violation of principles of natural justice.

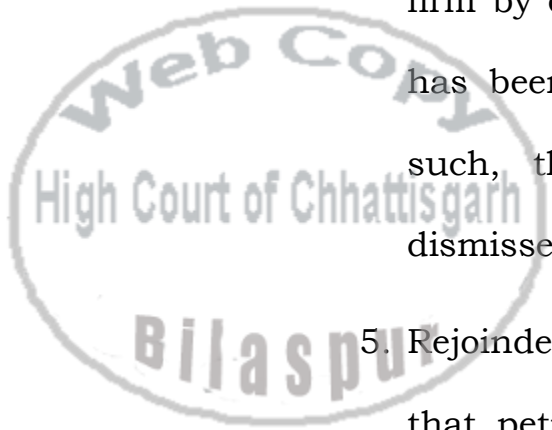
4. Return has been filed on behalf of respondent No. 2 stating inter alia that the impugned order dated 17/02/2023 (Annexure P/1A) cancelling the work order issued to the petitioner firm by order dated 05/12/2022 (Annexure P/4) is absolutely in accordance with law as according to the tender condition, it was obligatory on the part of the petitioner firm to disclose the fact about it being blacklisted by Municipal Corporation, Dhamtari and since the petitioner firm hid the said fact from the respondents, therefore, the cancellation of tender awarded to the petitioner firm cannot be said to be illegal and bad in law. It has further been stated that an inquiry committee had been constituted to look into the matter vide order dated 20/01/2023 (Annexure R-2-1) in pursuance of which, notice was proposed to be issued to the petitioner firm on 23/01/2023 (Annexure R-2-2) and thereafter, reply was filed by the petitioner firm on 03/02/2023 (Annexure R-2-5) and after considering the said reply and further considering that the fact of





blacklisting which was suppressed by the petitioner firm is in contravention of tender clause 26(06), the inquiry committee submitted its inquiry report on 06/02/2023 (Annexure R-2-7) which was placed for consideration before respondent No. 5 – Mayor-in-Council, who vide resolution No. 6 dated 14/02/2023 (Annexure R-2-11) took the decision for cancellation of tender and ultimately, respondent No. 3 – Executive Engineer passed the impugned order dated 17/02/2023 (Annexure P/1A) and cancelled the work order granted to the petitioner firm by order dated 05/12/2022 (Annexure P/4), which has been carried out with due process of law and as such, this batch of writ petitions is liable to be dismissed.

5. Rejoinder has been filed by the petitioner firm stating that petitioner firm was under the general impression that it has been blacklisted only for specific kind of work i.e. construction/development work and supply of materials and not blacklisted for carrying out sanitation work and therefore, the petitioner firm was not barred from participating in the subject tender and the said contention raised by the petitioner firm has never been weighed by either the inquiry committee while preparing the inquiry report or by respondent No. 5 i.e. Mayor-in-Council while passing the resolution or by respondent No. 3 i.e. Executive Engineer of the Corporation while passing the impugned order for cancellation of tender.



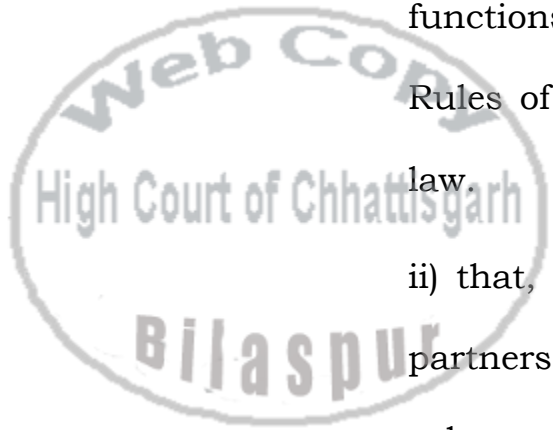


6. Mr. Siddharth Dubey, learned counsel for the petitioner firm, would make the following two-fold submission :-

i) that, respondent No. 3 i.e. the Executive Engineer was not competent to cancel the contract entered into between the petitioner firm and the Municipal Corporation in view of the provisions contained under Sections 50 and 73 of the Municipal Corporation Act, 1956 (hereinafter, 'the Act of 1956) read with Rules 7 and 12 of the Chhattisgarh Municipalities (the conduct of business of mayor in council and the power and functions of authorities) Rules, 1998 (hereinafter, 'the Rules of 1998'), as such, the order impugned is bad in law.

ii) that, the petitioner herein i.e. 'M/s P.V. Raman' is a partnership firm and it was never blacklisted rather the sole proprietorship functioning in the name of P.V. Raman was blacklisted by the Municipal Corporation, Dhamtari by order dated 04/08/2022 (Annexure P/5), as such, it is not binding on the petitioner – a partnership firm and thus, its contract could not have been cancelled by the impugned order and therefore, it is liable to be set aside.

7. Mr. Pankaj Agrawal, learned counsel for respondents No. 2 to 5, would support the impugned order and submit that the work in question was awarded to the petitioner firm by order dated 05/12/2022 (Annexure P/4) passed

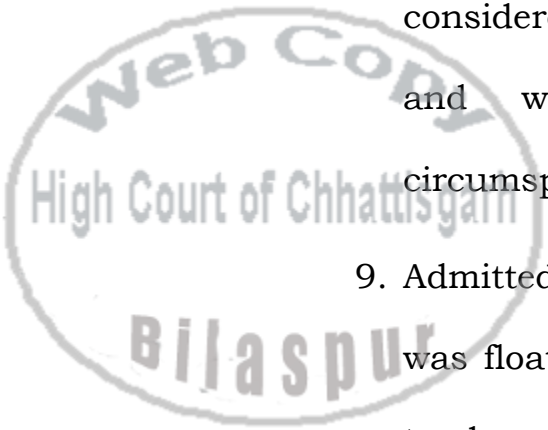




by respondent No. 3 – Executive Engineer and thus, it has rightly been cancelled by him pursuant to the order of respondent No. 5 – Mayor-in-Council, which is strictly in accordance with law. He would further submit that P.V. Raman was blacklisted by the order of Municipal Corporation, Dhamtari and he is a partner in the petitioner firm, therefore, he cannot disown the responsibility for his actions and as such, these writ petitions are liable to be dismissed.

8. We have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

9. Admittedly and undisputedly, the subject tender which was floated vide Annexure P/4 clearly provided that the tenderer should not have been blacklisted and he has to file an affidavit to that extent in an envelope along with other details. The petitioner firm was awarded work after selecting his tender on 05/12/2022 (Annexure P/4) and later on, it was revealed that petitioner firm has already been blacklisted by Municipal Corporation, Dhamtari vide order dated 04/08/2022 (Annexure P/5) pursuant to which petitioner firm was noticed by the inquiry committee vide memo dated 23/01/2023 (Annexure P/2) and reply was filed by the petitioner firm on 25/01/2023 (Annexure P/2) and thereafter, the matter was placed





before respondent No. 5 – Mayor-in-Council along with the inquiry report, who vide resolution dated 14/02/2023 (Annexure P/1B), took the decision for cancellation of tender awarded to the petitioner firm and ultimately, respondent No. 3 – Executive Engineer passed the impugned order dated 17/02/2023 (Annexure P/1A) and cancelled the work order granted to the petitioner firm by order dated 05/12/2022 (Annexure P/4).

10. The challenge made by the petitioner firm in these writ petitions is two-fold. Firstly, that the impugned order dated 17/02/2023 (Annexure P/1A) passed by respondent No. 3 – Executive Engineer could not actually have been passed by him in accordance with Sections 50 and 73 of the Act of 1956 read with Rules 7 and 12 of the Rules of 1998. However, a careful perusal of order dated 05/12/2022 (Annexure P/4) by which work order was issued to the petitioner firm would show that it was approved by the Mayor-in-Council in the meeting held on 05/12/2022 and thereafter, the Executive Engineer passed the order dated 05/12/2022 (Annexure P/4) in favour of the petitioner firm and similarly, the impugned order dated 17/02/2023 (Annexure P/1A), cancelling the work order issued in favour of the petitioner firm also recites that it has been passed by respondent No. 3 – Executive Engineer after the respondent No. 5 – Mayor-in-Council had passed the resolution dated 14/02/2023 (Annexure P/1B) deciding to cancel the work order





issued in favour of the petitioner firm. As such, since the petitioner firm was granted tender by the order dated 05/12/2022 (Annexure P/4) passed by respondent No. 3 – Executive Magistrate after approval of respondent No. 5 – Mayor-in-Council, it was also revoked by the impugned order dated 17/02/2023 (Annexure P/1A) passed by respondent No. 3 – Executive Engineer relying upon the resolution dated 14/02/2023 (Annexure P/1B) passed by respondent No. 5 – Mayor-in-Council. Therefore, the challenge made by the petitioner firm that the impugned order has been passed by incompetent authority is *sans* merit and it is accordingly rejected.

11. Secondly, it is the case of the petitioner, which is a partnership firm, that the order dated 04/08/2022 (Annexure P/5) of blacklisting was passed by the Municipal Corporation, Dhamtari against P.V. Raman as an individual whereas the tender in question was awarded to M/s P.V. Raman (petitioner herein) which is a partnership firm under the Indian Partnership Act, 1932. A copy of the partnership deed has been filed as Annexure P/6 along with the writ petition which would show that petitioner herein M/s P.V. Raman is a partnership firm consisting of three partners and one of them is P.V. Raman. While submitting the affidavit, the petitioner firm could have informed well in advance that P.V. Raman as an individual has been blacklisted by the Municipal Corporation, Dhamtari, which it has omitted





to do and in that view of the matter, considering that the nature of work was with regard to sanitation of certain wards under the area of the Municipal Corporation, Risali which was a project under the Swachh Bharat Abhiyaan, we are of the considered opinion that the respondent authorities have rightly revoked the work order passed in favour of the petitioner firm vide order dated 05/12/2022 (Annexure P/4) after conducting an inquiry and after affording an opportunity of hearing to the petitioner firm by passing a reasoned and speaking order in the shape of impugned order dated 17/02/2023 (Annexure P/1A), which is strictly in accordance with law and does not warrant any interference in exercise of the extraordinary jurisdiction inherent upon this Court under Article 226 of the Constitution of India.

12. This batch of writ petitions, deserve to be and are accordingly dismissed.

Sd/-
(Sanjay K. Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice