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**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE**

**HON'BLE SHRI JUSTICE VIVEK RUSIA**

**&**

**HON'BLE SHRI JUSTICE AMAR NATH (KESHARWANI)**

**WRIT PETITION No. 6342 of 2022**

Between:-

CMM INFRAPROJECTS LIMITED SHALIMAR CORPORATE  
CENTRE THROUGH ITS AUTHORISED OFFICER KISHAN  
MUNDRA MANAGING DIRECTOR 108 8B NATH MANDIR RD  
SOUTH TUKOGANJ, INDORE (MADHYA PRADESH)

.....PETITIONER

*(BY SHRI AJAY BAGADIYA, LEARNED SENIOR COUNSEL WITH  
SHRI GAJENDRA CHOUHAN, LEARNED COUNSEL FOR THE  
PETITIONER.)*

AND

1. M.P. PUBLIC WORKS DEPARTMENT (MP PWD) CHIEF ENGINEER  
MADHAV NAGAR, UJJAIN (MADHYA PRADESH)
2. EXECUTIVE ENGINEER M.P. PUBLIC WORKS DEPARTMENT (MP  
PWD) MADHAV NAGAR, UJJAIN (MADHYA PRADESH)

.....RESPONDENTS

*(BY SHRI BHASKAR AGRAWAL, LEARNED GOVT. ADVOCATE FOR  
THE RESPONDENT NO.1. AND 2.)*

**PER: VIVEK RUSIA, J.**

**(Heard on 28.04.2022)**

**(Order passed on 13.05.2022)**

The petitioner has filed this present petition being aggrieved by the order dated 31.05.2019 whereby Chief Engineer, Public Works Department, Ujjain (M.P.) blacklisted the petitioner due to non-completion of pending work.

The petitioner is a registered company incorporated under the Companies Act, 2013 engaged in the business of civil engineering and construction work. Respondent no.2 floated a tender on 26.03.2013 inviting bids for construction of Excellence

College- Government Kalidas Girls College, Ujjain at a probable amount of contract being Rs.916.20 lacs. The petitioner participated in the aforesaid tender process and on 19.09.2013 the petitioner's tender was accepted at 8.21.% above the building Schedule of Rates (SOR) thereby letter of acceptance was issued on 19.09.2013 followed by a work order dated 24.09.2013. According to the petitioner, there was a delay in the supply of drawing design and funds on part of the respondents, therefore, the petitioner could complete the construction of the first floor and second floor up to July 2017 therefore, the delay in construction work was not attributable to the petitioner. Various correspondences were made between the petitioner and the respondent regarding the speeding of the work. According to the petitioner, in the matter of Ramdev Infra Vs. CMM Infra Project pending before NCLT Ahmedabad an affidavit was filed on 12.10.2021 along with the copy of the impugned order dated 31.05.2019 that the petitioner had been blacklisted by the M.P. P.W.D. Ujjain Region. On that, the petitioner came to know about the black listing order passed by the respondents. According to the petitioner before passing the impugned order no opportunity for a hearing was given and even the impugned order was never communicated to the petitioner. The petitioner has filed this present petition seeking quashment of the impugned order *inter alia* on the ground that the petitioner was neither served with any show-cause notice of hearing nor communicated with the copy of the impugned order.

The respondents have filed the reply by denying each and every averment made in the writ petition. It is submitted that before approaching this court the petitioner has already challenged the impugned order dated 31.05.2019 before the

Engineer-in-Chief by filing representation on 09.03.2022 which the petitioner did not disclose in this writ petition therefore, the petitioner has not approached this court with a clean hand. It is further submitted that there is a provision of appeal to the petitioner. It is submitted that before passing the order number of show-cause notices were issued to the petitioner, but no reply was filed. Even a copy of the order dated 31.05.2019 was communicated to the petitioner by speed post on 03.06.2019. Hence this petition is liable to be dismissed.

Shri Ajay Bagadiya, learned senior counsel has submitted that even if the order of black listing has been passed on 31.05.2019 the said order is liable to be quashed as it does not specify any period of black listing. It is a settled law that there can't be a black listing for an indefinite period. This issue can be considered in this petition without entering into the controversy of whether any opportunity of hearing was given to the petitioner, or this impugned order was ever communicated by the respondents. The respondents have filed various documents to show that not only show cause notice before passing the impugned order, as well as impugned order, was communicated to the petitioner. The petitioner by way of filing a rejoinder is not disputing that before filing this writ petition a representation has already been filed to the Engineer in Chief on 09.03.2022 i.e. before filing this petition before the court on 15.03.2022. In all fairness, the petitioner ought to have disclosed the submission of this representation. Copy of which has been filed as *Annexure-R/2*.

In a representation submitted to the Engineer in Chief, the petitioner has not contended that no opportunity of hearing was given before passing the impugned balk-listing order. Therefore,

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all the grounds raised in this petition are nothing but an afterthought. In the said writ petition the petitioner has stated that violation of impugned order in violation of various judgments passed by the High Court and the Supreme Court. Therefore, it cannot be said that the petitioner has no knowledge about the basic law about raising an issue of violation of principles of natural justice and non-supply of the copy of the impugned order. Hence petitioner has not approached with a clean hand before this court therefore, we are not inclined to interfere with the impugned order in this petition. However it is correct that black listing cannot be done for an indefinite period, the Engineer in Chief shall consider this issue for fixing the period of black-listing. Accordingly, the writ petition is dismissed.

**(VIVEK RUSIA)**  
**JUDGE**

**(AMAR NATH KESHARWANI)**  
**JUDGE**

Ajit/-