

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE PURUSHAINDRA KUMAR KAURAV

WRIT PETITION No.19768 of 2020

Between:-

**NAMAN SEVA SAMITI THROUGH ITS
DIRECTOR SHISHIR KUMAR
CHOUDHARY S/O LATE SHRI RAJSINGH
CHOUDHARY, AGED 48 YEARS R/O VIKAS
NAGAR ATHNER THE & THANA ATHNER,
DISTRICT BETUL (M.P.)**

....PETITIONER

(BY SHRI SANKALP KOCHAR - ADVOCATE)

AND

- 1. CENTRAL WOOL DEVELOPMENT
BOARD, MINISTRY OF TEXTILE
THROUGH ITS EXECUTIVE DIRECTOR,
123 OPPOSITE POST OFFICE, BHAGAT KI
KOTHI, PALI ROAD, JODHPUR (RAJ).**
- 2. DEPUTY SECRETARY (VIGILANCE)
MINISTRY OF TEXTILE, UDYOGH
BHAVAN, NEW DELHI.**
- 3. COLLECTOR, BETUL, BETUL (M.P.).**

....RESPONDENTS

***(BY SHRI C.M.TIWARI – ADVOCATE FOR RESPONDENT
No.1)***

Reserved on : 15.02.2022

Delivered on : 04.03.2022

ORDER

The petitioner is aggrieved by order dated 22.09.2020 (Annexure P/17), whereby, the petitioner has been blacklisted.

2. The petitioner states that it is an NGO engaged in the work of Social and economic upliftment of the differently abled persons etc. The respondent No.1 with an aim of development of indigenous wool and woolens in the wool producing states in the country had introduced a programme by the name of Integrated Wool Improvement and Development Programme. With the aim of effective implementation of the said programme, various projects were floated by respondent No.1 and pursuant to such project, the petitioner submitted its proposal for two locations i.e Tikamgarh and Chhatarpur and accordingly, a sanction order in favour of the petitioner was issued. One of the sanction order dated 09.06.2008 (Annexure JP/1) mentions sanction accorded to draw a sum of Rs.28,00,000/- as grant-in-aid to meet the expenditure for implementation of Sheep & Wool Improvement Scheme for one lakh Marwari Sheep at Chhatarpur and Tikamgarh Districts of Madhya Pradesh. Various terms and conditions for utilization of the amount of grant were stipulated therein. The petitioner submits that it had undertaken the work of survey and study, Registration of flocks, project formulation and Training etc. After completion of the work, the report was submitted. On account of certain irregularities, an enquiry was conducted and F.I.R against the petitioner was registered by the C.B.I. However, after investigation, a closure report was filed before the Special Judge, C.B.I. which was accepted vide order dated 18.01.2014

(Annexure P/6). Despite the closure report, C.B.I. wrote a letter to respondent No.1 that an excess amount of Rs.14.28 lacs has to be recovered from the petitioner. Thereupon, on 04.07.2014, respondent No.1 wrote a letter to the petitioner to explain the aforesaid conduct. Notwithstanding the aforesaid correspondence and reply, respondent No.1 on 09.07.2019 and 02.08.2019 issued a show cause notice to the petitioner as to why action of blacklisting should not be initiated against the petitioner as the actual number of Sheep is lesser than what has been intimated by the petitioner in its report. The petitioner had submitted reply to the aforesaid show cause notice. On 22.09.2020, the order of blacklisting of the petitioner for indefinite period has been issued, hence the petitioner has preferred this petition.

3. Learned counsel for the petitioner submits that the action of the respondent No.1 in blacklisting the petitioner for indefinite period is illegal and improper. The same is not permissible under the law. He placed reliance on decision of the Hon'ble Supreme Court in the matter of *Kulja Industries Limited Vs. Chief General Manager, Western Telecom Project Bharat Sanchar Nigam Limited and others*¹, *Vetindia Pharmaceuticals Limited Vs. State of Uttar Pradesh and another*², *B.C.Biyani Projects Pvt. Ltd. Vs. State of Madhya Pradesh and*

¹ (2014) 14 SCC 731.

² (2021) 1 SCC 804.

*others*³ and the decision of this Court in the matter of *Deep Enterprises Vs. State of M.P. and others*⁴.

4. Learned counsel for the respondent No.1 opposed the petition. He submits that the impugned action has been taken strictly in accordance with law. The petitioner was afforded proper opportunity of hearing before passing the impugned order. An excess amount of Grant of Rs. 14.28 lacs alongwith interest was not refunded by the petitioner therefore, the impugned action was warranted. He placed reliance on the decision of Hon'ble Supreme Court in the matter of *Gorkha Security Services Vs. Govt. of NCT of Delhi*⁵.

5. I have heard learned counsel for the parties and perused the record.

6. An order of blacklisting operates to the prejudice of a commercial person not only *in praesenti* but also puts a taint which attaches far beyond and may well spell the death knell to the organization/institution for all times to come, which is described as a civil death. The Hon'ble Supreme Court in the aforesaid judgments has clearly held that there can be different period of debarment depending upon the gravity of the offences, violations and breaches. In the matter of

³ Civil Appeal No.6632/2016 decided on 22.07.2016.

⁴ 2017(2) MPLJ 145.

⁵ (2014) 9 SCC 105.

*Daffodills Pharmaceuticals Ltd. Vs. State of Uttar Pradesh*⁶, the Hon'ble Supreme Court has observed that an order of blacklisting beyond three years or maximum of five years was disproportionate under the fact of that case. In the matter of *Kulja Industries Ltd.*¹ in paragraph-25, the Hon'ble Supreme Court has held that "debarment" is never permanent and the period of debarment would invariably depend upon the nature of the offence committed by the erring contractor. The Hon'ble Supreme Court in the matter of *B.C.Biyani*³ has held that an order of blacklisting in the nature of permanent one is impermissible in law. Such an order was set aside. The order dated 14.3.2013 blacklisting the contractor was held to be valid only until the date of passing of the judgment by the Supreme Court on 22.07.2016. This court in the matter of *Deep Enterprises*⁴ has set aside the order of blacklisting when the same had already been in operation for more than 1 ½ years and it was held that the order of blacklisting cannot be allowed to remain in operation for indefinite period.

7. Keeping in mind the aforesaid principle of law, the impugned order dated 22.09.2020 (Annexure P/17) is hereby set aside. However, the matter is remitted to the respondent No.1/ authority to pass a speaking order determining the period for which the petitioner would remain blacklisted on the basis of the nature of breach committed by it

⁶ (2020) 18 SCC 550.

and keeping in mind that the petitioner has already suffered a period of blacklisting for about 1 ½ year.

8. In view of aforesaid, the instant writ petition is allowed to the extent indicated above.

(PURUSHAINDR KUMAR KAURAV)
JUDGE

MKL.