

GAHC010053442018



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C) 1647/2018

1:SIDDHARTHA DEB ROY
2ND LINK ROAD, LANE NO.4 HOUSE NO. 35/11, SILCHAR OWNER OF THE
PROPRIETORIAL FIRM, M/S. GEETANANJALI ENTERPRISES

VERSUS

1:BHARAT SANCHAR NIGAM LTD. AND 3 ORS
A GOVT. OF INDIA UNDERTAKING, HAVING ITS REGD. AND CORPORATE
OFFICE AT HARISH CHANDRA MATHUR LANE, JANPATH, NEW DELHI,
REP. BY ITS CHAIRMAN

2:CHIEF GENERAL MANAGER
TELECOM DEPTT. BHARAT SANCHAR NIGAM LTD.
PANBAZAR GUWAHATI

3:DY. GENERAL MANAGER (VIGILANCE)
OFFICE OF THE CHIEF GENERAL MANAGER
BHARAT SANCHAR NIGAM LTD. PANBAZAR
GUWAHATI.

4:ASSTT. GENERAL MANAGER (ADMN.)
E-10B BUILDING 3RD FLOOR DACCAIPATTY SILCHAR

Advocate for the Petitioner : MS M HAZARIKA

Advocate for the Respondent : SC, BSNL

BEFORE
HONOURABLE MR. JUSTICE ARUP KUMAR GOSWAMI

ORDER

Date : 26-03-2018

Heard Ms. M. Hazarika, learned senior counsel for the petitioner. Also heard Mr.
R. Thadani, learned standing counsel, BSNL, appearing for all the respondents.

It is submitted by Ms. Hazarika that the impugned show-cause notice dated

08.03.2018 (Annexure-C of the writ petition) issued to the petitioner asking him to show-cause as to why he should not be blacklisted on the ground that an FIR was lodged against him is without any authority of law as in terms of the Central Public Works Department Manual, 2009 (for short, "CPWD Manual"), blacklisting is permissible only when the firms are found guilty of malpractices, like bribery, corruption etc. or if their proprietors or employees, partners or representatives are convicted for offences involving moral turpitude, in relation to business dealings or security consideration, including loyalty to the State, or the firm continuously refuses to return Government dues without showing adequate cause.

Mr. Thadani submits that the petitioner had only been asked to show-cause and, therefore, the writ petition is not maintainable. He also submits that the Department can blacklist a Contractor after giving an opportunity of hearing on any ground. He relies on a decision of the Supreme Court in the case of ***Kulja Industries Limited -Vs- Chief General Manager, Western Telecom Project, BSNL***, reported in ***(2014) 14 SCC 731***.

The CPWD Manual, on which the Department relies upon, envisages blacklisting of a Contractor, amongst others, only on conviction for offences.

Issuance of show-cause notice, in the instant case, goes to the root of the matter as the petitioner questions the competency to issue such a notice on the ground that an Ejahar is filed.

Therefore, I consider it appropriate to issue notice in this case.

Accordingly, notice of motion is issued, making it returnable in 4(four) weeks.

No formal steps with regard to the respondents are called for as they are duly represented. However, extra copies of the writ petition be served upon Mr. Thadani.

Until further orders, the impugned show-cause notice dated 08.03.2018 (Annexure-C of the writ petition) issued by the AGM (Admin), BSNL, Silchar SSA, Silchar, shall remain suspended.

JUDGE

M. Sharma