

(2003) 07 AHC CK 0237

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 29713 of 2003

Ambedkar Rashtriya Kalyankari
Samiti (Dr.) and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: July 18, 2003

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2003) 3 UPLBEC 1968

Hon'ble Judges: R.S. Tripathi, J; M. Katju, J

Bench: Division Bench

Advocate: Pradeep Upadhyay, for the Appellant;

Final Decision: Dismissed

Judgement

M. Katju, J.

This writ petition has been filed against the impugned order dated 1.7.2003 passed by the Regional Food Controller, Varanasi, respondent No. 2, copy of which is Annexure 13 to the writ petition.

2. Heard learned Counsel for the petitioner and learned Standing Counsel.

3. It is alleged in Paragraph 3 of the writ petition that the Petitioner No. 1 is a Society registered under the Societies Registration Act whose registration was renewed for five years from 30.6.2002 vide Annexure-1 to the writ petition. It is alleged in Paragraph 4 of the writ petition that the object of the Society is to extend service to the public and provide various facilities with the collaboration of the State agencies. The Petitioner No. 1 also provides transportation facilities through contract. The Petitioner No. 2 is the Manager of Petitioner No. 1.

4. It is alleged in Paragraph 5 of the writ petition that the petitioner Society entered into a contract for three years with the Regional Food Controller, Varanasi,

respondent No. 2, for transportation of foodgrains and sugar from the Government go-down to the various distributing centres. True copy of the contract is Annexure-2 to the writ petition . It is alleged in Paragraph 7 of the writ petition that the petitioner is a registered transport contractor vide registration certificate Annexure -3 to the writ petition. The petitioner transports by road the foodgrains and sugar in pursuance of the contract and receives the transportation charges. The contract of the petitioner has been extended till 30.6.2003. It is alleged in Paragraph 10 of the writ petition that the petitioner Society has performed its duties well. However, it is alleged in Paragraph 11 of the writ petition that the President of the Society made a complaint on 21.11.2002 to the Food Minister, U.P., copy of which is Annexure-7 to the writ petition. In this complaint allegations were made about various irregularities which are said to have caused several crores rupees loss to the State Revenue. It was alleged in that letter that under the Government Orders the near relations of Government officers/employees cannot take contract in the concerned department but his irregularity have been committed in Varanasi Division. A further complaint was made to the Regional Food Controller, Varanasi vide letter dated 24.12.2002, Annexure-8 to the writ petition. It was alleged in the complaint that the authorities are indulging in malpractices and are granting the contracts to persons outside the region and district, and are deliberately giving supply from Varanasi and Pratapgarh district whereas sufficient foodgrains and sugar is available at Jaunpur. Due to this malpractice of the authorities and employees of the Department extra-transportation charges were being paid to their own persons/contracts.

5. learned Counsel for the petitioner has submitted that there is a specific provision (clause No. 8) in the contract for the loss committed during transportation, which provides 2 to 4 times recovery from the contractor against the actual damage, However, despite this provision the order of blacklisting has been passed against the petitioner against which this petition has been filed.

6. We have heard the submission of the learned Counsel for the parties. It has been admitted in Paragraph 14 of the writ petition that on 6.3.2003 the respondent No. 2 issued a show cause notice to the petitioner vide Annexure-9 to the petition and the petitioner filed reply dated 7.4.2003 and additional explanation dated 26.5.2003 vide Annexures 10 and 11 to the writ petition. Hence in our opinion, it cannot be said that the impugned order was passed without giving opportunity of hearing to the petitioner.

7. We have carefully gone through the impugned order. The very first Paragraph of the order shows that sufficient opportunity of hearing was given to the petitioner.

8. As many as seven charges were made against the petitioner and have been found proved after detailed discussion of the facts. The charges are very serious in nature, as a perusal of the impugned order indicates. For instance, as regards the first charge it has been found that duplicate parchis were prepared with farzi signatures and details mentioned therein, and this charge has been found proved after

discussion of the material on record. It has been found that in the farzi T.D. slips there were farzi signatures of the Inspector. It has been found that the contractor has not done his work properly at all.

9. As regards the second and third charges it has been found that the petitioner did not provide adequate trucks in lifting the foodgrains due to which work suffered and proper distribution was not done.

10. As regards the fourth charge, it has been found that the petitioner did not send adequate foodgrains to some centres, but in other centres he sent more than what was required, and this was done in an arbitrary manner which adversely effected the public distribution system. As regards the fifth and sixth charges it has been found that farzi signatures of the Centre Incharge has been obtained on the despatch slips and black-marketing was being done.

11. All these are serious charges which were found established. Hence there is no infirmity in the impugned order. The provision No. 8 under the contract does not detract from the power of the authorities to blacklist a party when he was found involved in various kinds of serious irregularities,

12. Writ is discretionary jurisdiction and we are not inclined to exercise our discretion under Article 226 in such a case. The petition is dismissed.