

GROSONS PHARMACEUTICALS (P) LTD. AND ANR. A

v.

THE STATE OF UTTAR PRADESH AND ORS.

SEPTEMBER 5, 2001

[V.N. KHARE AND B.N. AGRAWAL, JJ.] B

*Administrative Law—Approved Contractor—Supply of drugs Irregularities—Show Cause notice issued—Blacklisting ordered—Validity of— Held: Valid, since sufficient opportunity given—No violation of principles of audi alterem partem.* C

The appellant was an approved Contractor for supply of drugs to the respondent, the State of U.P. On noticing certain irregularities in supplying of drugs. Vigilance inquiry was set up and criminal prosecution was launched against appellant under provision of Prevention of Corruption Act read with Sec. 120, I.P.C. A Show Cause notice was issued to the appellant. Thereafter, Respondent ordered blacklisting the appellant till final disposal of the pending matter and also final decision in the investigation of proceeding initiated against appellant. D

The appellant challenged the order of the respondent by way of a writ petition, which was dismissed by the High Court. The appellant filed S.L.P before this Court. The Court gave direction to respondent to reconsider the matter considering the explanation submitted by the appellant, keeping the impugned order intact. The respondent reconsidered the matter and affirmed its earlier order. E

The appellant again challenged the order before the High Court by filing a writ petition which was dismissed on the ground that detailed reasons were recorded by the respondent before passing impugned order. Hence this appeal. F

The appellant contended that the respondent ought to have supplied all the materials on the basis of which charges contained in the show cause notice were based. G

Dismissing the appeal, the Court

HELD: The appellant has only contractual relationship with the H

- A** respondent-State Government of U.P. and the said relationship is not governed by any statutory rules to make it obligatory on the respondent to issue show cause notice before passing order blacklisting the appellant. However, since the order blacklisting the appellant has Civil consequences, principle of *audi alteram partem*, one of the principles of Natural Justice need to be followed.
- B** However, supplying of materials on the basis of which charges against appellant were based was not the requirement of the said principle. An opportunity to show cause was sufficient. Hence procedure adopted by the respondent was in conformity with the principle of Natural Justice. [569-E, F]

- C** CIVIL APPELLATE JURISDICTION : Civil Appeal No. 708 of 1993.

From the Judgment and Order dated 24.8.91 of the Allahabad High Court in W..P No. 2746 (M/B) of 1991.

- D** Ravi P Mehrotra, M.P.S. Tomar, Ms. Deepti R Mehrotra and Ms. Sandhya Goswami for the Appellants.

R.B. Mehrotra, and A.K. Srivastava for the Respondents.

The Judgment of the Court was delivered by

- E** **V. N. KHARE, J.** The appellant herein is a small scale industry engaged in manufacture and sale of drugs and was registered with the Directorate of Industry (Stores Purchase Section), Kanpur, U.P. As a result of the aforesaid registration, the appellant was an approved contractor for supply of drugs to the government departments. The appellant, in pursuance thereof, had been supplying drugs to the U.P. government. It appears that that certain
- F** irregularities came to the notice of the government in purchase of medicines and, therefore, a vigilance inquiry was set up as a result of which the record and product of the appellant were seized. Further, criminal prosecution was also launched against the appellant under provisions of Prevention of Corruption Act read with Section 120 IPC. Under such circumstances, the
- G** State government served a notice on the appellant to show cause why it should not be blacklisted in its dealing with the government. It appears that the appellant sent a reply to the show cause notice. The State Government on expiry of the period for reply by the appellant passed an order blacklisting the appellant. The order indicated that the period of blacklisting will be till the disposal of the case pending in the Court as well as till the final decision
- H** is arrived at in the investigation of proceedings instituted against the firm on

various accounts. The appellant challenged the aforesaid order by means of a writ petition under Article 226 of the Constitution of India. The said writ petition was dismissed. Aggrieved, the appellant challenged the said order and judgment by way of special leave petition in this Court. The said special leave petition was numbered as 10087/91. When the matter came up for hearing before a Bench of this Court, this Court was of the view that the State Government was required to reconsider the matter along with the explanation submitted by the appellant while keeping the impugned order in tact. With the aforesaid direction, the special leave petition was disposed of.

In pursuance of the direction of this Court, the State government reconsidered the matter and affirmed the earlier order of blacklisting the appellant. The appellant again challenged the said order by means of a writ petition before the High Court. The High Court looked into the record and found that elaborate reasons were recorded and thereafter the order of blacklisting was passed. In that view of the matter, the writ petition was dismissed. It is against the said judgment, the appellants have preferred this appeal.

Learned counsel appearing for the appellant, urged that seeing the nature and seriousness of the order passed against the appellant, the respondent ought to have supplied all the materials on the basis of which the charges contained in the show cause notice were based along with show cause notice and in the absence of supply of materials, the order impugned is against the principles of natural justice. We do not find any merit in this contention. Admittedly, the appellant has only contractual relationship with the State government and the said relationship is not governed by any statutory Rules. There is no statutory rule which requires that an approved contractor cannot be blacklisted without giving an opportunity of show cause. It is true that an order blacklisting an approved contractor results in civil consequences and in such a situation in the absence of statutory rules, the only requirement of law while passing such an order was to observe the principle of *audi alteram partem* which is one of the facet of the principles of natural justice. The contention that it was incumbent upon the respondent to have supplied the material on the basis of which the charges against the appellant were based was not the requirement of principle of *audi alteram partem*. It was sufficient requirement of law that an opportunity of show cause was given to the appellant before it was blacklisted. It is not disputed that in the present case, the appellant was given an opportunity to show cause and he did reply to the show cause which was duly considered by the State Government. We are,

A therefore, of the view that that the procedure adopted by the respondent while blacklisting the appellant was in conformity with the principles of natural justice.

B It was then urged that the impugned order blacklisting the appellant does not contain any reasons and, therefore, the order is invalid. We do not find any merit in the submission. The High Court summoned the entire record and found that elaborate reasons were recorded by the State Government while passing the order blacklisting the appellant. The High Court further recorded a positive finding that the State Government has passed the impugned order after recording elaborate reasons and summary of which is contained  
C in the impugned order.

For the aforesaid reasons, we do not find any merit in the appeal and it fails and is dismissed accordingly. There shall be no order as to costs.

S.K.S.

Appeal dismissed.