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अंडमान तथा निकोबार प्रशासन  
मुख्य अभियन्ता का कार्यालय  
अंडमान लोक निर्माण विभाग  
निर्माण भवन पोर्टब्लेयर



ANDAMAN AND NICOBAR ADMINISTRATION  
OFFICE OF THE CHIEF ENGINEER  
ANDAMAN PUBLIC WORKS DEPARTMENT  
NIRMAN BHAWAN PORT BLAIR

F.No.63 (10)/2014-15/CE/APWD/FIN/1354

Dated 08 November 2016

**ORDER No. 1354**

Whereas Shri Pran Gopal Das, was enlisted in Class-III (Civil) in APWD vide order no. 367 dt. 04/04/2007 valid for a period of 05 years from the date of issue of the order.

Whereas the CBI has registered a case RC 121 2010 A 004 dt. 29/12/2010 against Shri. K. Murthy and others. The CBI in its report stated that during the period between 02/2007 and 03/2008, the then EE, viz. Shri. K. Murthy, MID, APWD, Hut bay in conspiracy with Shri Pran Gopal Das, contractor and other official procured excess quantity of cement through local market and freight charges were paid to the contractor at an exorbitant rate for the supply of cement without any supporting documents, causing a loss to the Govt. ex-chequer to the tune of Rs.53,19,619/-. The CBI in its report to the Administration on the above case had recommended to black list Shri Pran Gopal Das from the approved list of contractor from APWD which has been accepted by the Hon'ble Lt. Governor who is also the Enlistment Authority for Class-IV to class-I contractor in APWD an order to this effect was issued vide order No. 915 dt. 16/07/2012

Whereas the petitioner had filed an memorandum of appeal and connected application (CAN No. 10525 of 2012 and MAT No. 1788 of 2012) for stay of operation of the order dated 20/06/2012 and 16/07/2012 passed by respondent authority.

The Division bench of Hon'ble High Court of Kolkata at Port Blair vide order dated 16/02/2015 had consider the prayer of stay and in consideration for such prayer, the order dated 16/07/2012 is stayed till 27/03/2015.

Whereas finally the court in its order dated 12/06/2015 had disposed off the MAT No. 1788 of 2012 by issuing order as reproduce below-

"We also do not think it would be proper on our part to decide what would be the length of time for which the appellent/writ petitioner ought to be remain blacklisted. That aspect will have to be addressed to by the competent authority. We accordingly modify the penalty imposed and direct the concerned authority to determine the period during which the appellent/writ petitioner would be subjected to blacklisting which would make him ineligible for undertaking works of the department. Decision in this regard shall be taken by the competent authority within a period of eight weeks from the date of communication of this order. The concerned authority shall also consider the fact that the appellent/writ petitioner has remained blacklisted approximately for about three years".

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As per court directives the case was considered by Hon'ble Lt. Governor being enlistment authority but considering the gravity of the case which is serious in nature and in terms of Enlistment Rules of Contractor in APWD, 2009 clause 23.3 (k) which stipulates that the name of the contractor may be removed from the approved list of contractor, by the enlisting authority, if he is involved in complaints of serious nature received from other department which prima facie appear to be true and he was permanently removed from the approved list of contractor of APWD vide order dated 6.1.2016.

Aggrieved by the order dated 6.1.2016 passed by Competent authority Shri. Pran Gopal Das Challenged the order in Hon'ble High Court at Calcutta Circuit Bench at Port Blair by filing W.P. No. 085 of 2016 and the Hon'ble High Court have passed an order in W.P. No. 085 of 2016 dated 5.2.2016 wherein Hon'ble Division Bench held that "The order of Division Bench is binding on the authority. They are free to fix any reasonable time period during which the petitioner shall remain blacklisting but permanent blacklisting is not permitted in view of the aforesaid Division Bench order.

In view of the aforesaid, the order impugned cannot be sustained. The order dated 6th January, 2016 is set aside. The matter is remanded back to the authority for consideration afresh and pass a reasoned order after giving an opportunity of hearing to the petitioner strictly in accordance with law within a period of six weeks from the date of communication of this order".

As per Hon'ble High Court direction a hearing was held on 07.04.2016 and the matter was placed before the Enlistment Board and it was decided to fix period of 5 years, and the proposal was submitted to Hon'ble Lt. Governor being the Enlistment authority and the proposal of Enlistment Board was agreed by the Enlistment authority and approved the proposal.

Accordingly five years period was fixed from the date of initial blacklisting i.e 16.7.2012 to 15.7.2017 vide this office order dated 994 dated 09<sup>th</sup> August 2016 in compliance with Hon'ble High Court order dated 05.02.2016 passed in WP. 085 of 2016.

Aggrieved by the order dated 09<sup>th</sup> August 2016 passed by Competent authority Shri. Pran Gopal Das Challenged the order in Hon'ble High Court of Calcutta, Circuit Bench at Port Blair by filing W.P. No. 281 of 2016 and the Hon'ble High Court of Calcutta passed an order 18<sup>th</sup> August 2016 wherein the impugned order 09<sup>th</sup> August 2016 is set aside and the matter is remanded to the competent authority once again for the competent authority to consider the rival contentions afresh and to pass a reasoned order thereon. The authorities were directed to pass a reasoned order by the earlier judgement and order dated 5<sup>th</sup> Feb. 2016. The authority who is competent to hear the matter will pass reasoned order, after affording a reasonable opportunity of hearing to the petitioner prior to passing of such order.

As per Hon'ble High Court direction a hearing was held on 21.10.2016 wherein the Petitioner stated that no action have been taken for others involved in the case in reply Chief Engineer stated that it is for the Court to decide for any action. It is to further mention that the period of blacklisting was fixed as per Hon'ble High Court of Calcutta order 5<sup>th</sup> Feb. 2016 passed in WP. 085 of 2016 and the reason of blacklisting was already stated in all the orders of this office vide the order no. 915 dt. 16/07/2012, order no. 22 dated 06.01.2016, order no. 994 dated 9<sup>th</sup> August 2016 stating that as CBI has registered a case RC 121 2010 A 004 dt. 29/12/2010 against Shri. K. Murthy and others. The CBI in its report to the Administration on the above case had recommended to black list Shri Pran Gopal Das from the approved list of contractor from APWD based on which blacklisting orders were issued.

This order is issued in compliance to Hon'ble High Court of Calcutta order 18<sup>th</sup> August 2016 passed in WP 281 of 2016.

This issues with the approval of Chief Engineer.

*Finance Officer to Chief Engineer,*  
(F. No. 63(10)/CE/APWD/Class-II- IV/2013-14/FIN)

OFFICE ORDER BOOK

Copy to:

1. The party concerned by Regd.post.
2. All the Superintending Engineers under APWD, Port Blair.
3. The Superintending Engineer, Electricity Department, Port Blair.
4. The Superintending Engineer, Zilla Parishad, Port Blair.
5. The Superintending Engineer, PBMC, Port Blair.
6. The Chief Engineer, Project Yatrict c/o 99 APO.
7. The Chief Engineer, MES, Port Blair.
8. The Chief Engineer and Administrator, ALHW, Port Blair.
9. The Assistant Commissioner of Income Tax, A & N Islands, Port Blair.
10. All the Executive Engineers under divisions of APWD.
11. AE, ISSD, APWD Kolkata.
12. The Executive Engineer, E&M (Plg), O/o CE, APWD with the request to upload the order in APWD website
13. The Deputy Secretary (PW), A & N Administration, Port Blair.

*Finance Officer to Chief Engineer,*  
(F. No. 63(10)/CE/APWD/Class-II- IV/2013-14/FIN)