

IN THE HIGH COURT OF JHARKHAND AT RANCHI  
**W.P. (C) No. 1545 of 2024**

M/s Binsys Technologies Private Limited, a registered company incorporated under the provisions of the Indian Companies Act 1956, having its office at 2<sup>nd</sup> & 3<sup>rd</sup> floor above Bata Showroom, 383 Bank Street, Munirka, P.O. & P.S. Munirka & District New Delhi (Delhi – 110067), through Dhiraj Kumar, Assistant Manager - Finance & Accounts, aged about 34 years, Son of Sambhu Singh, Resident of Basti Jalal, P.O. & P.S. Dighwara, & District - Saran (Bihar-841221).

... Petitioner

Versus

1. The State of Jharkhand through Chief Secretary, Government of Jharkhand, having his office at Project Building, P.O., P.S. - Dhurwa & District - Ranchi.
2. The Examination Controller, Jharkhand Staff Selection Commission, through its Secretary, Kalinagar, Chaibagan, P.O. & P.S. - Namkom & District - Ranchi.
3. Jharkhand Staff Selection Commission, through its Secretary, Kalinagar, Chaibagan, P.O. & P.S. - Namkom & District - Ranchi.
4. Deputy Secretary, Jharkhand Staff Selection Commission, Kalinagar, Chaibagan, P.O. & P.S. Namkom & District - Ranchi.

... Respondents

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**CORAM: HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE RAJESH SHANKAR**  
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For the Petitioner:	Mr. Ajit Kumar, Sr. Advocate
	Mr. Vikalp Gupta, Advocate
For the State:	Mrs. Sunita Kumari, A.C. to Sr. S.C.-II
For the JSSC:	Mr. Sanjoy Piprawall, Advocate

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Reserved on: 23.06.2025

**Pronounced on: 26/06/2025**

**Per M.S. Ramachandra Rao, C.J.**

1. The petitioner is a private limited company incorporated under the Companies Act, 1956.
2. The 3<sup>rd</sup> respondent is the Jharkhand Staff Selection Commission, the 2<sup>nd</sup> respondent is the Examination Controller of the said

Commission and the 4<sup>th</sup> respondent is Deputy Secretary of the said Commission.

**The background facts**

3. The 3<sup>rd</sup> respondent issued a tender on 16.11.2021 inviting Expression of Interest for selection and empanelment of agencies for conduct and processing of various recruitment examinations which have to be conducted by the 3<sup>rd</sup> respondent. The petitioner deposited the tender fee and the Earnest Money Deposit on 17.12.2021 and participated in the bidding process.

4. A general agreement dt. 03.01.2022 was executed between the petitioner and the 3<sup>rd</sup> respondent empanelling the petitioner with the said respondent for three years from 03.01.2022 to 02.01.2025 for conducting assigned examination process.

5. The petitioner was declared as L-1 bidder and subsequently, a Work Order dt. 12.04.2022 was granted in its favour for conducting OMR Based Jharkhand Diploma Level Combined Competitive Examination 2021.

6. The said examination was conducted on 03.07.2022 at 83 examination centres in the State of Jharkhand.

**The FIR dt.14.7.2022**

7. However, there was allegedly a question paper leak which resulted in an F.I.R. Namkum P.S. Case No. 227 of 2022 dt. 14.07.2022 being registered by the Police under Sections 467, 468, 420, 120-B IPC, Section 66 of the Information Technology Act and Section 10 of the Bihar Conduct of Examinations Act, 1981.

**The show cause notice dt.25.7.2022**

8. Annexure 8 is a show-cause notice-cum-suspension letter issued by the 2<sup>nd</sup> respondent on 25.07.2022 to the petitioner informing the petitioner about the registration of the said F.I.R. on allegations of question paper leakage in the said examination and suspending the empanelment of the petitioner immediately. In the same show-cause notice, petitioner was asked to show cause by 01.08.2022 why it cannot be blacklisted for its connivance in the question paper leakage.

**Petitioner's reply to the show cause notice**

9. On 01.08.2022 the petitioner gave a reply refuting allegations in the show-cause notice.

10. It was contended that the confidential examination material was handed over as per instructions of the 3<sup>rd</sup> respondent Commission in a secure and sealed cover, that the examination was conducted by the said Commission with supervision and control of the District Administration; and after handing over of the examination material, all forthcoming events and activities till the end of the examination were looked after by the 3<sup>rd</sup> respondent-officials and the petitioner was nowhere involved in the conduct of examination except with respect to CCTV, Biometric and candidate frisking.

11. The petitioner denied knowledge of the incident quoted in the show-cause notice and also stated that police investigation is going on and even the press briefings of the Police officials indicate that the petitioner is nowhere involved in the incident. Petitioner also contended that they have no relation with the incident of paper leakage and requested for immediate withdrawal of the letters suspending its

contract. It was also pointed out that blacklisting was unjustified before the closure of the police report.

**The black listing order dt. 02.08.2023**

12. On 02.08.2023 the 3<sup>rd</sup> respondent passed the blacklisting order stating that petitioner's explanation to the show-cause notice was 'not satisfactory' and it had not accepted any responsibility for the paper leak. In the said order, there is a reference to a letter issued by the Senior Superintendent of Police, Ranchi on 13.10.2022 alleging that an Ex-Director of the petitioner by name Arun Kumar, and a Director of the petitioner by name Ajit Kumar, were found to be in touch with one Abhishek Kumar said to be involved in the paper leak and that was why the petitioner was being blacklisted. Also no period for which the petitioner was being blacklisted was mentioned.

**The contentions of petitioner**

13. Petitioner contends that neither the petitioner nor any of its Directors or employees have been made accused in the police case registered on 14.07.2022, nor any evidence has come to light about its involvement and that they were not charge-sheeted by the police and, therefore, the order of blacklisting, that too for an indefinite period of time, is illegal, arbitrary and violation of Articles 14 and 19(1)(g) of Constitution of India, apart from Article 300-A of the Constitution of India.

14. Petitioner contends that though it was relieved from all works by 3<sup>rd</sup> respondent, it was made to continue work by 3<sup>rd</sup> respondent on their request and continued to provide various data, work-sheets as per various needs and requirements raised by the 3<sup>rd</sup> respondent from time to time and

several emails (Annexure-15 series) exchanged between the parties support its stand. It is contended that the 3<sup>rd</sup> respondent did not refund the performance bank guarantees in the form of FDRs.

**15.** Petitioner contends that as per para 10.2 of the Service Agreement dt. 12.01.2022 between the parties, the petitioner shall be solely responsible for the leakage if it is proved that the same is due to lack of care/failure attributable solely on the part of the petitioner or its employees or any person/body engaged by the petitioner.

**16.** Petitioner contends that neither the petitioner nor its employees were named in the F.I.R. and they were not also charge-sheeted. It is also contended that the petitioner has no connection with any of the accused persons responsible for the leakage and, therefore, blacklisting indefinitely when there is a serious dispute, cannot be sustained.

**The stand of the 3<sup>rd</sup> respondent -Commission**

**17.** The Respondents 2 to 4 in their counter affidavit referred to the letter of the Senior Superintendent of Police, Ranchi dt. 13.10.2022 referred to above, and contended that because of the question paper leak and the 3<sup>rd</sup> respondent had allotted the work to the petitioner, the petitioner had committed a criminal act and, therefore, it was entitled to be blacklisted.

**18.** It is, however, not denied in the counter affidavit filed by Respondents 2 to 4 on 07.12.2024 that investigation is still not complete but in spite of the same, it was decided to cancel the Work Order dt. 12.04.2022 issued to the petitioner and also to blacklist the petitioner indefinitely.

### **Consideration by the Court**

19. We have noted the contentions of the parties.

20. The Supreme Court of India in **Erusian Equipment & Chemicals Ltd. v. State of West Bengal & Anr**<sup>1</sup> held at paragraph 20 that blacklisting has the effect of preventing a person from the privilege and advantage of entering into lawful relationship with the Government for the purposes of gains; and the fact that a disability is created by the order of blacklisting indicates that the relevant authority is to have an objective satisfaction.

21. In **B.S.N. Joshi & Sons Ltd. v. Nair Coal Services Ltd & Others**<sup>2</sup>, the Supreme Court held that if a contractor is blacklisted on the ground that he was a defaulter, he may not get any contract at all and he may have to wind up its business. So, when a demand is made, if a contractor concerned raises a *bona fide dispute* in regard to the claim, so long as the dispute is not resolved, he may not be declared to be defaulter.

22. In **Kulja Industries Limited v. Chief General Manager, Western Telecom Project Bharat Sanchar Nigam Limited & Others**<sup>3</sup> the Supreme Court held that though blacklisting a contractor is a business decision, it is subject to judicial review when the same is taken by the State or any of its instrumentalities; that any such decision will be open to scrutiny not only on the touchstone of the principles of natural justice but also on the doctrine of proportionality. The Supreme Court held that a fair hearing to the party being blacklisted thus

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<sup>1</sup> (1975) 1 SCC 70

<sup>2</sup> (2006) 11 SCC 548

<sup>3</sup> (2014) 14 SCC 731

becomes an essential precondition for a proper exercise of the power and a valid order of blacklisting made pursuant thereto; and the order itself has to be reasonable, fair and proportionate to the gravity of the offence and this can be examined by a writ court. It also observed that as regards the period for which the order of debarment will remain effective, the same would depend upon the seriousness of the case leading to such debarment. It also 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.

**23. In *Blue Dreamz Advertising Pvt. Ltd. and Another v. Kolkata Municipal Corporation and Others*<sup>4</sup>,** the Supreme Court reviewed all the above decisions and held that blacklisting has always been viewed as a drastic remedy and orders passed have been subjected to rigorous scrutiny. According to the Court, where the case is of an ordinary breach of contract and the explanation offered by the person concerned raises a *bona fide* dispute, blacklisting/debarment as a penalty ought not to be resorted to. Debarring a person, albeit for a certain number of years, tantamounts to civil death, inasmuch as the said person is commercially ostracized resulting in serious consequences for the person and those who are employed by him. Too readily invoking the debarment for ordinary cases of breach of contract where there is a bona fide dispute, is not permissible. It also held that merely because the blacklisting order contains reasons, it cannot be upheld unless the reasons justify the invocation of the penalty of blacklisting and the

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<sup>4</sup> 2024 SCC OnLine SC 1896

penalty is proportionate when it is imposed by a statutory body vested with the duty to discharge public functions.

24. Keeping in mind these principles, we may firstly point out that it is not permissible for the 3<sup>rd</sup> respondent to debar the petitioner/blacklist the petitioner indefinitely, as has been clearly held in paragraph 25 of the judgment of **Kulja Industries Limited (supra 3)**.

25. Secondly, there is a serious bona fide dispute as to whether the petitioner or its employees are involved in the alleged paper leak since the petitioner has empathically denied any responsibility in connection with the paper leak, as can be seen from its explanation given on 01.08.2022 to the show-cause notice dt. 25.07.2022.

26. Merely on the basis of letter of the Senior Superintendent of Police, Ranchi dt. 13.10.2022 and though the petitioner or its employees have not been charge-sheeted till date by the police in the F.I.R. registered by them, the petitioner cannot be presumed to be guilty of the offence of leaking of question paper. In India, there is a presumption of innocence and the respondents cannot, on the basis of the letter dt. 13.10.2022, presume the guilt of the petitioner and blacklist the petitioner for an indefinite period of time.

27. Therefore, the impugned order dt. 02.08.2023 passed by Respondent 4 blacklisting the petitioner is quashed and the respondents are directed to make the payment of bills/invoices totaling to Rs.2,90,00,176/- along with interest @ 7% per annum for the work done by it.

28. The respondents shall also release to petitioner the FDRs amounting to Rs.31,84,800/- and Rs.9,85,805/- submitted by the



petitioner towards performance bank guarantees to the 3<sup>rd</sup> respondent within 4 weeks, if not invoked, or in the alternative, if they had been invoked/ encashed, refund the amounts covered by the said FDRs with interest @ 7% per annum from the dates of invocation of the said FDRs/bank guarantees till the date of payment. The Respondent 3 shall also pay cost of Rs.2,00,000/- to the petitioner for its arbitrary action.

**29.** With the aforesaid directions and observations, this writ petition is allowed.

**(M.S. Ramachandra Rao, C.J.)**

**(Rajesh Shankar, J.)**

N.A.F.R.

Manoj/-