

AFFIXED

AT INDORE

Presented on 10/5/16  
By M. Shrivastava  
MP 134192  
Prosecution Assistant

1

SINGLE BENCH

BEFORE HON'BLE THE HIGH COURT OF MADHYA  
PRADESH BENCH AT INDORE

Writ Petition No. 3487 of 2016

PETITIONER M/S. SAINATH AGENCIES  
THROUGH WORKING PARTNER  
RAMADHAR RAI S/O LATE SHRI BABULAL  
JI RAI, R/O- 432, SCHEME NO. 51,  
SANGAM NAGAR, INDORE (M.P.)

VERSUS

- RESPONDENTS
1. STATE OF MADHYA PRADESH,  
THROUGH SECRETARY,  
DEPARTMENT OF PUBLIC HEALTH  
AND WELFARE,  
VALLABH BHAVAN, BHOPAL (M.P.)
  2. COMMISSIONER,  
DIRECTORATE MEDICAL AND  
HEALTH SERVICES, 5<sup>th</sup> Floor, Satpuda Bhavan  
BHOPAL (M.P.)
  3. DEPUTY DIRECTOR (MEDICIAN  
SUPPLY), DIRECTORATE HEALTH  
SERVICES (M.P.) 4<sup>th</sup> Floor, Satpuda Bhavan  
Bhopal
  4. DIRECTOR (FINANCE),  
DIRECTORATE HEALTH SERVICES,  
BHOPAL (M.P.) 3<sup>rd</sup> Floor,  
Satpuda  
Bhavan

10/5/16  
Office of the  
Advocate General  
M.P. High Court Bench  
INDORE

WRIT PETITION UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA IN THE MATTER  
OF BLACKLISTING AN REGISTERED FIRM TO  
SUPPLY THE MEDICINES

MAY IT PLEASE YOUR LORDSHIP.



ANNEXURE - C  
HIGH COURT OF MADHYA PRADESH

CASE NO.....OF 20.....

ORDER SHEET (CONTINUATION)



DATE & S.  
NO. OF THE  
ORDER

ORDER

W.P.No.3487/2016

03.04.2017

Shri Shashank Sharma, learned counsel for the petitioner.

Shri Rohit Mangal, learned GA for the respondent/State.

Petitioner has filed the present petition being aggrieved by the order dated 30.01.2016 and communication dated 17.03.2016, by which, he has been black listed for 5 years to participate any tender proceedings.

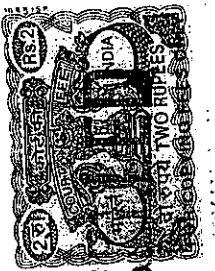
Petitioner is a registered partnership firm having license under the Shops and Establishments Act' 1953. The petitioner is engaged in the business since 20.10.2011 in supply of drugs to the health department. In pursuant to the various purchase orders from 29.09.2014 to 31.10.2014, supply of various drugs to the Civil Surgeons and Medical Officers, District Hoshangabad was done.

Since the pending bills of the petitioner has not been cleared, he gave a legal notice and thereafter, without opportunity of hearing, vide order dated 30.01.2016, the petitioner's firm has been black listed for 5 years for taking part in the tender process.

By letter dated 17.03.2016, the Directorate, Health Services has directed all CMHO not to permit the petitioner to participate in the tender process.

After notice, the respondent has filed return and submitted that the petitioner has supplied various drugs of substandard quality and in the internal enquiry conducted by

against him. One more



ANNEXURE - C  
**HIGH COURT OF MADHYA PRADESH**

CASE NO.....OF 20.....

**ORDER SHEET (CONTINUATION)**

DATE & S.  
AT INDORE OF THE  
COURT

**ORDER**

conduct of the petitioner was objectionable, which came to the knowledge of the audit team in respect of the financial year-2013-14 that the payments were released without supplying all drugs. It is further submitted that erring officer has also been issued a show-cause notice by the department.

That the law in case of black listing is well settled by the apex Court as well as by this Court that black listing amounts to taking the fundamental right of freedom of business & which cannot be taken away by the respondent/department without giving opportunity of hearing.

Admittedly, before issuing order of black listing, no opportunity of hearing was granted to the petitioner, therefore, the impugned order cannot be sustained in the eyes of law.

Accordingly, order dated 30.01.2016 and communication dated 17.03.2016 is hereby set aside and matter is remitted back to the Deputy Director, Health Services to give opportunity of hearing to the petitioner before taking any action.

Let entire exercise be completed within 60 days from production of certified copy of this order.

With the aforesaid observations, petition is disposed of.  
CC as per rules.

(VIVEK RUSIA)  
Judge

Jasleen

