

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4750 of 2011

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M/S Rajan Construction through its Managing Partner Rajan Kumar Singh
Son of Sri Surendra Prasad Singh, Resident of Mohalla - Block More, Old
G. T. Road, Aurangabad, District - Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar
2. Engineer-in-Chief-Cum-Secretary, Rural Works Department, Bihar,
Patna
3. Chief Engineer-1 (South), Rural Works Department, Bihar, Patna
4. Executive Engineer, Rural Works Department, Works Division No. - 2 ,
Aurangabad District - Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madanjeet Kumar
Mr. Anil Kumar

For the Respondent/s : Mr. Sunil Kumar, AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 26-06-2015 Heard the parties.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of office order No. 68 dated 04.03.2011 issued under the signature of the respondent Engineer-in-Chief, Rural Works Department, Bihar, Patna, as contained in Annexure-5 to the writ petition, whereby the petitioner firm has been black-listed in exercise of powers under Rule-11(A)(i) and (iii) of Bihar Contractor Enlistment (Registration) Rules, 2007.

Learned counsel appearing on behalf of the petitioner while assailing the validity and correctness of the impugned order has submitted that the impugned order is liable to be set aside, apart from the merit, on the ground of violation of rules of natural justice. It is contended that as per the impugned order, a show cause notice was issued to the petitioner by letter dated 31.01.2011 and the reminder show cause notice was issued by letter dated



14.02.2011, but none of the show cause notices were served upon the petitioner before the impugned order was passed on 04.03.2011. By referring to the averments made in paragraph-10 and 11 of the writ petition, it is submitted that though the aforesaid show cause notices were despatched from the office of the respondent no.2, but they were served upon the petitioner on 05.03.2011, and the impugned order was passed prior to that date, i.e. 04.03.2011. It is next contended that in the above background the petitioner could not file his show cause within time. However, without giving reasonable opportunity of hearing to the petitioner, the impugned order has been passed, which is not only violative of rules of natural justice, but also violative of the aforesaid Rule-11(A)(i) and (iii) of Bihar Contractor Enlistment (Registration) Rules, 2007.

This matter was earlier heard by a Bench of this Court on 24.03.2011 and the learned State counsel was granted time for filing counter-affidavit and in the meantime, operation of impugned order was stayed. Unfortunately, despite passage of more than four years, counter-affidavit has not been filed on behalf of the respondents. In above view of the matter, the averments made in the writ petition have to be accepted to be correct.

From the facts noticed above, it is apparent that the impugned order dated 04.03.2011 has been passed in violation of principles of natural justice, as reasonable opportunity of hearing was not given to the petitioner before the impugned order was passed. Therefore, this Court is of the opinion that the order impugned cannot be sustained and is, accordingly, quashed on that ground alone. However, the respondents shall be at liberty to pass

a fresh order in accordance with law after giving an opportunity of hearing to the petitioner.

The writ petition stands allowed to the extent indicated above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

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