

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4545 of 2012

M/S Shyama Construction Works through one of the Partners namely Raman Kumar Roy, Son of Sri Deo Chandra Roy, Resident of Village Bishoul, P.S. Jhanjharpur, District Madhubani

.... Petitioner

Versus

1. The State of Bihar
2. Principal Secretary, Rural Works Department, Government of Bihar, Patna
3. Engineer in Chief, Rural Works Department, Government of Bihar, Patna
4. Chief Engineer, Rural Works Department, Patna
5. Superintending Engineer, Rural Works Department, Darbhanga
6. Executive Engineer, Rural Works Department, Works Division-2, Jhanjharpur, District Madhubani

.... Respondents

Appearance :

For the Petitioner :	Mr. Ajay Kumar Thakur, Advocate
	Mr. Md. Imteyaz Ahamad, Advocate
	Mr. Ravi Ranjan, Advocate
	Mr. Amit Kumar, Advocate
For the Respondents	Mr. Gyan Shankar, AC to GP 6

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 29-04-2016

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for setting aside the order as contained in office order No. 23 dated 24.01.2012 as contained in memo No. 1429 dated 24.01.2012 issued under the signature of the Engineer-in-Chief, Rural Works Department, Government of Bihar, by which the petitioner firm was held guilty under Rule 11(ka)(vi) of the Bihar Contract Registration Rules, 2007, and thereby blacklisted.

3. Learned counsel for the petitioner submits that the impugned order of blacklisting is arbitrary and unsustainable in law, having been passed without any prior opportunity whatsoever to the petitioner of being heard in the matter.

4. Learned counsel for the respondents relies on the counter affidavit

filed on behalf of the respondents but, however, accepts on the basis of para 24 thereof, that the show cause letter was not appropriately addressed to the petitioner.

5. Having heard the parties and on a consideration of the materials on record, this Court finds merit in the writ petition. It is well settled that any adverse order passed by an authority must be preceded by an opportunity of being heard in terms of the fundamental principles of natural justice, more so, when the matter relates to blacklisting which has serious consequences upon the reputation as well as business of the person concerned.

6. A perusal of the impugned order of blacklisting dated 24.01.2012 also discloses that the same has been made to operate in perpetuity which is contrary to the well settled principles as enunciated in *M/s Kulja Industries Ltd. vs Chief General Manager, W.T. Project, BSNL and others* [(2014) 14 SCC 731].

7. In the above view of the matter, the impugned order dated 24.01.2012 (Annexure-1) is hereby set aside.

8. It is made clear that the respondents shall be at liberty to pass orders afresh in accordance with law, if so advised, after grant of proper opportunity to the petitioner.

9. The writ petition stands allowed.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	04.05.2016
Transmission Date	