

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.3330 of 2015**

=====

Vikash Kumar Jha son of Late Manoj Jha, resident of village Suro (Ojhatol), P.S.-  
Bachhwara, District- Begusarai

.... .... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Water  
Resources, Government of Bihar, Patna

2. Principal Secretary, Department of Water Resources, Government of Bihar,  
Patna

3. Engineer in Chief (Central), Water Resources, Government of Bihar, Patna

4. Principal Secretary, Department of Minor Water Resources, Vikash Bhawan,  
Bailey Road, Government of Bihar, Patna

5. Engineer-in-Chief-cum-Project Coordinator, Minor Irrigation, Government of  
Bihar

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner : Mr. Ajay Kumar Thakur, Advocate with  
Mr. Md. Imteyaz Ahmad,  
Mr. Amit Kumar and  
Mr. Eshtiyaque Ahmad, Advocates

For the State : Mr. Abhimanyu Vatsa, AC to GA 9

=====

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**

**ORAL JUDGMENT**

**Date: 22-02-2016**

Heard learned counsel for the parties.

The petitioner has moved the Court for setting aside the order contained in Memo No. 405 dated 27.01.2015 by which M/s Om Sri Construction, a firm in which the petitioner is also a partner has been blacklisted including all its partners.

Learned counsel for the petitioner submits that the cause of action for initiating such action against the petitioner was that the Minor Water Resources Department under Letter No. 6617 dated 18.11.2014 had made such request on the ground that one of the partners also of the firm had assaulted the Engineer-in-Chief of that Department for which Shashtri Nagar P.S. Case No. 622 of 2014 dated 16.10.2014 had been instituted. It is further submitted that though a show cause had been asked but the same was only for the alleged misconduct in the Minor Water Resources Department which has passed the order for the reason that the firm of the petitioner was registered with the Water Resources Department. Learned counsel submits that the firm had moved this Court in C.W.J.C. No. 1865 of 2015 against the said order of the Minor Water Resources Department contained in Memo No. 6617 dated 18.11.2014 and by order dated 22.02.2016 i.e., today the said order has been set aside. It is thus submitted that the present proceeding and order being passed totally as a consequence of Memo No. 6617 dated 18.11.2014, the present

order also needs to be set aside.

Learned counsel for the State submits that prior to passing of the impugned order a show cause was issued to the petitioner. However, he is not in a position to controvert the fact that show cause was in terms of the recommendation sent by the Minor Water Resources Department and for an act of indiscipline/assault said to have taken place against the officer of the Minor Water Resources Department. It is submitted that though the State authorities have the power under the बिहार ठीकेदारी निबंधन नियमावली, 2007 (hereinafter referred to as the 'Regulations') but without independently having applied their mind and such incident having been finally proved against the petitioner, the order impugned is fit to be set aside. Learned counsel for the State is also not in a position to controvert the fact that the present order is a direct consequence of the order dated 18.11.2014 contained in Memo No. 6617 of the Minor Water Resources Department which has been set aside by order dated 22.02.2016 in C.W.J.C. No. 1865 of 2015.

Having considered the rival contentions and the facts and circumstances of the case, in view of the earlier order of the Court in C.W.J.C. No. 1865 of 2015 dated 22.02.2016, the present order being a consequence of the said order, also cannot be sustained. Accordingly, the order impugned contained in Memo No. 405 dated

27.01.2015 passed by the respondent no. 3 is also set aside. However, the same shall not preclude the respondents from taking appropriate action in accordance with law as well as the provisions of the Regulations for any misconduct of the firm or its partners.

The writ petition stands disposed off in the aforementioned terms.

**(Ahsanuddin Amanullah, J)**

Anjani/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|