

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7270 of 2016

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1. Mahnar Infratech Private Limited, through its Director Mr. Rajeev Ranjan, Son of Sri Kailash Singh, Resident of Village:- Tara Chaurdi, P.O. + P.S.:- Mahnar, District:- Vaishali, Reg. Officer:- House No. Road No. 05, Rajpur Nagar, Hajipur, District:- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Works Department, 'Vishweshwaraiya Bhawan' Bailey Road, Patna- 15.
2. The Engineer-in-Chief, Rural Works Department, 'Vishweshwaraiya Bhawan' Bailey Road, Patna- 15.
3. The Chief Engineer-3, Rural Works Department, 'Vishweshwaraiya Bhawan' Bailey Road, Patna- 15.
4. The Superintendent of Engineer, Rural Works Department, Works Circle, Samastipur.
5. The Executive Engineer, Rural Works Department, Works Division, Dalsinghsarai, District:-Samastipur.
6. The District Magistrate (D.M), Samastipur.
7. The Dy. Secretary, Rural Works Department, 'Vishweshwaraiya Bhawan' Bailey Road, Patna- 15.
8. Mr. Anil Kumar, the Present Executive Engineer, Rural Works Department, Works Division, Dalsinghsarai, District:- Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Narain, Senior Advocate
Mr. Manish Sahay
Mr. Anil Kumar Sinha

For the Respondent/s : Mr. Vivek Prasad, G.P.7
Mr. S.K. Ojha, A.C. to G.P.7

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

4 23-08-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks quashing of the order dated 25.02.2016 passed by the Engineer-in-Chief, Rural Works Department, by which he has blacklisted the petitioner for a period

of ten years.

Learned counsel for the petitioner submits that the order has been passed in gross violation of the principles of natural justice as after a show cause was asked from the petitioner, the petitioner had filed reply to the same, which fact is admitted in the impugned order but without considering the explanation of the petitioner, the order of blacklisting has been passed.

It is, thus, submitted that a non-speaking order has been passed, which has not taken into consideration the points raised by the petitioner and for the said reason alone, it is fit to be quashed.

Learned counsel for the petitioner further submits that from the tenor of the order, it is evident that it is being passed after a departmental appraisal of the matter which is stated in the last part of the impugned order, whereas it is the Secretary of the Department, who is the appellate authority against such orders under the Bihar Contractor Registration Rules.

On both these counts, learned counsel for the State is unable to defend the order in question. The order is evidently a non-speaking order and does not even whisper about the stand taken by the petitioner in reply to the show cause notice.

This Court is also of the view that when provision for appeal has been made and an officer is the appellate authority then

he ought not to participate in any appraisal of the matter at the departmental level, as otherwise the appeal would be a mere formality and a complete sham.

In the aforesaid circumstances, the writ application is allowed and the impugned order dated 25.02.2016 is quashed. The matter is referred back to the Engineer-in-Chief, Rural Works Department to pass a fresh order in accordance with law after taking into consideration the reply to the show cause filed by the petitioner and without being influenced by any superior authority in the matter.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

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