

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10460 of 2016

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1. Brajesh Kumar son of Sri Ramashrey Prasad, resident of Village- Chauria Tola,
P.O. Dhum Nagar, P.S. Jagdishpur, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary.
2. Road Construction Department, Government of Bihar through its Principal Secretary.
3. Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Road Construction Department, Bihar, Patna.
4. Secretary to the Engineer-in-Chief, Road Construction Department, Bihar, Patna.
5. Rural Works Department, Government of Bihar through its Principal Secretary, Patna.
6. Engineer-in-Chief, Rural Works Department, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Ranjan Prasad,
M/S. Rajendra Kumar, Sudhanshu Trivedi
and Surabhi.

For the Respondent/s : Mr. S.Raza Ahmad, AAG 5
Mr. Md. Kamil Akhtar, A.C. to AAG 5

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CORAM: HON'BLE MR. JUSTICE RAMESH KUMAR DATTA

ORAL JUDGMENT

Date: 19-10-2016

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

2. The petitioner seeks quashing of the order dated
12.04.2016 passed by the Secretary, Road Construction Department,
Government of Bihar, Patna by which he has dismissed the appeal
filed by the petitioner against the office order no. 213 dated
07.08.2015 issued by the Engineer-in-Chief-cum-Additional
Commissioner-cum-Special Secretary, Road Construction
Department, Bihar, Patna by which the petitioner was black listed for
a period of ten years under the provisions of the Bihar Contractors



Registration Rules, 2007 and for quashing the order dated 07.08.2015.

3. The short facts of the case are that the petitioner is a registered Class I contractor in the Rural Works Department, Government of Bihar. The petitioner participated in a tender process initiated by the Road Construction Department for widening and strengthening of Jamui-Laxmipur-Kharagpur-Bariarpur Road, S.H. 72, Kilometer 44.05 to 57.7. In the said tender the petitioner had allegedly annexed a forged experience certificate. The Engineer-in-Chief, Road Construction Department, Bihar by his letter dated 24.02.2014 referred the matter to the Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Rural Works Department Bihar stating that since the petitioner was registered in his department, therefore, it was recommended that action be taken against the petitioner under the Registration Rules. On receipt of the said letter a show cause notice was issued by the Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Rural Works Department, Government of Bihar to show cause as to why he should not be black listed. The petitioner filed his reply. By order dated 03.09.2014 the Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Rural Works Department black listed the petitioner.

4. Aggrieved by the same, the petitioner filed an appeal



before the Principal Secretary, Rural Works Department who remanded the matter for imposing proportionate punishment. Thereafter by order dated 25.06.2015 issued by the Engineer-in-Chief, Rural Works Department it was directed that the petitioner shall be black listed for one year from 03.09.2014 to 02.09.2015.

5. Subsequently, by the impugned order dated 07.08.2015 the Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Road Construction Department, Bihar also black listed the petitioner for a period of ten years. On appeal, the Secretary, Road Construction Department has affirmed the order and dismissed the appeal.

6. Learned counsel for the petitioner submits that the petitioner having been once black listed for one year by the Engineer-in-Chief, Rural Works Department it was not open to the Road Construction Department to have black listed the petitioner for a period of ten years on the same allegation and, therefore, the impugned orders dated 07.08.2015 and 12.04.2016 are arbitrary and fit to be quashed.

7. Learned Additional Advocate General finds it difficult to support the action of the respondents in repeatedly black listing the petitioner on the same allegation first by the Rural Works Department and thereafter by the Road Construction Department.

8. This Court also considers it unjust, arbitrary and illegal



on the part of the respondents to have twice taken action against the petitioner on the same allegation. Once the petitioner had been black listed on the allegation in a matter referred to by the Road Construction Department to the Rural Works Department, which had taken a decision to black list the petitioner for one year. thereafter it was not open to the Road Construction Department to have black listed the petitioner separately for a period of ten years. The matter having been referred to by the Road Construction Department to the Rural Works Department, there was no occasion for it to have taken up the matter on its own and pass further order of black listing.

9. In the aforesaid circumstance, the said action is arbitrary and violative of Article 14 of the Constitution of India.

10. For the reasons aforesaid, the writ application is allowed and the impugned orders dated 07.08.2015 and 12.04.2016 are quashed.

(Ramesh Kumar Datta, J)

Amin/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.01.2017
Transmission Date	

