

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14349 of 2015

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Prashant Kumar Singh @ Prasant Kumar Singh Son of Achaldeo Singh Resident of
Village & P.O. - Bakhorapur, P.S. - Barhara, District - Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Works Department, Bihar, Patna.
2. The Engineer-in-Chief, Rural Works Department, Visheshwariya Bhawan, Bailey Road, Patna.
3. The Chief Engineer, Rural Works Department, Visheshwariya Bhawan, Bailey Road, Patna.
4. The Superintending Engineer, Rural Works Department, Works Circle, Ara, Bhojpur.
5. The Executive Engineer, Rural Works Department, Works Division, Ara, Bhojpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 16-02-2016

Heard learned counsel for the parties.

The petitioner has moved the Court against the order dated 18.08.2015 contained in Memo No. 10137 passed by the respondent no. 2 by which he has been blacklisted for an indefinite period.

Learned counsel for the petitioner submits that he is a contractor and due to there being differences with the respondent no. 5 with regard to illegal gratification which a contractor has to part with for getting contracts in the department, a dispute had arisen as despite having taken an 'advance' the respondent no. 5 had not allotted the work to the petitioner for which he had gone to seek return of the said



amount leading to the respondent no. 5 lodging an F.I.R. against him the next morning. It is submitted that only on the basis of that said allegation he had been blacklisted by the respondent no. 2 and even the said impugned order of blacklisting being for an indefinite period is against the statutory provision as contemplated under the Bihar Thekedari Nibandhan Niyamawali, 2007, (hereinafter referred to as the 'Regulation') the relevant being at Clause 11(Ka) since the blacklisting can only be for a definite period and not indefinite. Learned counsel submits that even in the F.I.R. lodged, it would be clear that the incident alleged is said to have taken place at about 9.00 P.M. on 19.12.2014 whereas the F.I.R. was lodged next morning i.e., 20.12.2014. Learned counsel submits that in the F.I.R. it has been clearly written that the petitioner along with another person has misbehaved with him and the informant had called another contractor Nagendra Mohan Singh which patently appears to be concocted for the reason that if at all a person feels threatened or is in fear, the first reaction would be to call his superiors as it was related to discharge of official duties or/and the local administration/police and also his relatives/ close friends. It is submitted that the person called was a local contractor who could not be a close friend whom a person calls when faced with a crisis. Learned counsel submits that the said being a separate cause of action and the petitioner having moved the Court and even been granted anticipatory bail, for the purposes of the

present case only to indicate that the allegation against him is totally false and concocted and has resulted in a punishment given only to harass and damage the petitioner is not permissible in law and deserves to be interfered with.

Learned counsel for the State submits that there being a substantive criminal case in which allegation of assault and misbehaviour has been levelled against the petitioner, under the aforesaid Regulation itself, the action of debarment against the petitioner is valid, though the period has to be stated and it cannot be indefinite. He further submits that the Court may not go into the merits for the present as under the said Regulation, a statutory appeal has been provided under Clause 11 (Gha) to the Commissioner and Secretary of the Department who in the present case is the Principal Secretary of the Road Construction Department and thus the Court may direct the petitioner to approach the authority concerned.

Learned counsel for the petitioner, by way of reply submits that he is agreeable to approach the statutory appellate authority but in the meantime to safeguard his interest so that irreparable loss is not cause to him, he may be given some interim protection till the matter is not finally decided by the appellate authority.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court deems it appropriate to dispose off the matter with a

direction to the petitioner to move before the statutory appellate authority under the Regulation within two weeks from today along with a copy of this order. If the same is done, the appellate authority shall dispose off the appeal by a reasoned order expeditiously.

Till the time the same is not decided, the operation of the impugned order dated 18.08.2015 contained in Memo No. 10137 issued under the signature of the respondent no. 2, shall be kept in abeyance.

(Ahsanuddin Amanullah, J.)

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