

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9843 of 2017

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Nilesh Kumar, son of Vijay Prasad Singh, resident of Mohalla- Horilganj, P.S.-
Jehanabad, District- Jehanabad.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary,
Rural Works Department, Government of Bihar, Patna.
4. The Chief Engineer, Rural Works Department, Government of Bihar, Patna.
5. The Superintending Engineer, Rural Works Department, Work Circle,
Aurangabad.
6. The Executive Engineer, Rural Works Department, Work Division,
Aurangabad.
7. The Circle Officer, Goh, Aurangabad.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Krishna Chandra, Adv.

For the State : Mr. Patanjali Rishi, A.C. to A.A.G.-6

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 17-10-2017

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

In this case, the petitioner is challenging the order
containing memo no.7647 dated 28.06.2017, whereby and where-
under petitioner has been placed in the list of debarred contractors.

The petitioner was assigned the job of constructing the



road under Pradhan Mantri Gram Sadak Yojana from Goh Hamidnagar Path to Akuri Path. Earlier, the petitioner could not complete the work, he was put in the debarred list and later on, he was released from the list of debarred contractors and again by impugned order dated 28.06.2017 he has been placed in the list of debarred contractors.

In the counter affidavit, it has been mentioned that the petitioner has been brought in that list on account of non-maintaining the road, as per the terms of the contract the contractor has to maintain the road.

Learned counsel for the petitioner submits that the road was okayed, there was no requirement of maintenance inasmuch as no any notice was ever served to the petitioner pointing out to failure in maintaining the road.

In the counter affidavit, no where it has been stated that any notice has been served on the petitioner, informing him to failure to maintain the road and/or pointing out the place where the condition of the road has been deteriorated.

As no such fact has been brought in the counter affidavit, in such circumstance placing the present petitioner in the debarred list, this Court is of the view, is not legal. If the authority wants they must take action, but following the proper procedure.



In such view of the matter, the petitioner will not be treated to have been in the list of the debarred contractors dated 28.06.2017. It goes without saying that if the authority wants to take action against the petitioner, they must follow the rule of law.

With the aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	22.10.2017
Transmission Date	N/A.

