

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10962 of 2017

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M/s Nirman Enterprises, Contractor and Order Supplier, Officer at H/O, Late Nand Kishore Sharma, Baileysarai, Motihari, through its partner namely Prem Kumar Sharma, Son of Late Nand Kishore Sharma, Resident of Mohalla Baileysarai, Motihari, P.S. Town Thana, District- East Champaran, Motihari.

.... Petitioner

Versus

1. The Union of India through the Department of Telecommunication, Government of India, New Delhi.
2. The Chairman, B.S.N.L, a Government of India Enterprise, New Delhi.
3. The C.G.M.T., Bihar Circle, Patna.
4. The P.G.M. (N.W.P. C.F.A.), Office of the C.G.M.T. Bihar Circle, Patna.
5. The DE (P) JNB, BLNL, Gaya.
6. The D.E./SDE (Trans), Office of G.M.T.D., BSNL, Gaya.
7. G.M. Gaya, the G.M. Office of G.M.T.D., B.S.N.L, Gaya.
8. The DE (A & P), O/O GMTD, BSNL, Gaya.
9. DE (Plg), O/O GMTD, Gaya.
10. The SDE (Plg), O/O GMTD, BSNL, Gaya.
11. The PS to the PGMTD, BLNL, Gaya.
12. The SDE (Gr.), BLNL, Arwal.
13. The AO (Cash) O/O the PGMTD, BLNL, Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ranjeet Kumar,
Mrs. Ranjeeta Singh
Mr. Kundan Kumar, Advocates
For the Resp. No.1 : Mr. Rajesh Kumar Verma, CGC
For the Resp. Nos. 2 to 13: Mr. Ashok Kumar Dubey, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 27-11-2017

The present writ petition has been filed for setting aside the order contained in Letter No. G.T.D.(Plg)/Tender Correspondence/2017-18/20 dated 15.07.2017 issued by the D.E.(Plg), Office of G.M.T.D., B.S.N.L., Gaya whereby agreement dated 09.05.2017 executed in between the petitioner and the BSNL, Gaya has been terminated, security deposit has



been forfeited and further the petitioner firm has been black listed for two years from participating in any tender issued from Gaya S.S.A; and for connected reliefs.

2. Learned counsel for the petitioner makes a short submission to assail the impugned order of black listing dated 15.07.2017 on the ground that no prior opportunity of being heard has been granted to the petitioner.

3. Learned counsel for the respondents opposes the writ petition and relies on para 23 of the counter affidavit to submit that letters dated 27.06.2017 and 07.07.2017 have been issued to the petitioner and it is therefore, incorrect to say that the petitioner was not heard in the matter.

4. Having heard learned counsel for the parties and on a consideration of the materials on record, this Court finds merit in the writ petition. A perusal of letter dated 27.06.2017 (Annexure-5), 07.07.2017 (Anenxure-10) and 11.07.2017 (Annexure-14) shows that these have been issued merely instructing the petitioner to complete the work, failing which action would be taken. This Court is of the view that such letters of general nature do not amount to show cause with a proposal to black list the petitioner thereby confronting him in that regard to enable him to file a meaningful reply. In the instant case, it is apparent that no prior show cause notice against black listing has been issued to the petitioner prior to passing of the impugned order which amounts to violation of natural justice and vitiates the decision making process.

5. The impugned order dated 15.07.2017 is accordingly set aside and the writ petition stands allowed.



6. It is made clear that the respondents shall however, be at liberty to take fresh steps in the matter, if so advised.

(Vikash Jain, J)

Chandran/lbrar

AFR/NAFR	NAFR
CAV DATE	N.A.
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Transmission Date	N.A.

