

## IN THE HIGH COURT OF JUDICATURE AT PATNA

### Civil Writ Jurisdiction Case No.19121 of 2017

=====

Baidyanath Singh, S/o Late Gonour Singh, resident of Village - Gavasra, P.O.-  
Chadhua, P.S.- Kudhni, District- Muzaffarpur.

.... .... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Home Department, Government of Bihar, Patna.
2. The Home Commissioner, Home (Jail) Department, Bihar, Patna.
3. The Inspector General, (Prisons and Correctional Services), Bihar, Patna.
4. The District Magistrate - cum - Chairman, District Jail Purchase Committee, Muzaffarpur.
5. The Jail Superintendent, Shahid Khudiram Bose Central Jail, Muzaffarpur.

.... .... Respondents

=====

#### Appearance :

For the Petitioner : Mr. Siddhartha Prasad  
Mr. Om Prakash Kumar, Advocates

For the Respondents : Mr. Utsav Kumar, AC to GA 4

=====

**CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN**

ORAL JUDGMENT

**Date: 04-01-2018**

The present writ petition has been filed for the following  
reliefs –

*“(a) For quashing the order dated 16.11.2017 (Annexure-21) contained in memo no. 5901 whereby and whereunder the petitioner has been debarred from participating in the tender of the Jail for the next 4 (four) financial years 2016-17, 2017-18, 2018-19 & 2019-20 and further deduction from the security deposit of the petitioner has been ordered for compensating the State exchequer for the extra expenditure incurred for supply of non-food items by the newly appointed agency.*

*(b) For appropriate writ(s)/order(s)/direction(s) commanding the respondent to return the entire*



*security deposit and earnest deposit amount submitted by the petitioner with respect to all items (food and non-food items) forthwith along with penal interest at the rate of 12% per annum.*

*(c) For any other relief/reliefs that the petitioner is entitled to in the fact and circumstances of the case.”*

2. Learned counsel for the petitioner has taken a categorical statement in paragraphs 31 and 32 of the writ petition that no show cause notice whatsoever has been served upon the petitioner prior to passing of the impugned order of debarment. It is therefore submitted that the impugned order is wholly arbitrary and against the principles of natural justice which cannot be sustained.

3. Learned counsel for the respondents appears and has been heard. The stand of the petitioner with regard to non-issuance of show cause notice to the petitioner has not been controverted, as no counter affidavit has been filed till date.

4. Having regard to the submissions of the learned counsel for the petitioner, this Court is satisfied that non-issuance of show cause notice to the petitioner has resulted in violation of natural justice and thus the decision debarring the petitioner from participating in the tender for the next four financial years stands vitiated. The impugned order dated 16.11.2017 (Annexure-21) is hereby quashed and the matter is remanded to the Jail Superintendent, Shahid Khudiram Bose Central Jail, Muzaffarpur (respondent no. 5) for taking decision afresh in the matter after issuing show cause notice to the petitioner and



granting an opportunity of hearing in accordance with law.

5. It is made clear that in case the stand of the petitioner denying issuance of show cause notice prior to order debarring the petitioner from participating in the tender for the next four financial years being passed is found to be incorrect, the respondents shall be at liberty to approach this Court for recall of this judgment.

6. The writ petition stands allowed as above.

**(Vikash Jain, J)**

B.T/Chandran

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | N.A.       |
| Uploading Date    | 07.01.2018 |
| Transmission Date | N.A.       |

