

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.12904 of 2017**

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Baban Kumar Singh S/o Jagdish Prasad Singh, resident of Mohalla - M.I.G. 90,  
Housing Board Colony, P.S. - Rampur, District - Gaya.

.... .... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Government of Bihar, Rural Works Department, Vishweswaraiya Bhawan, Bailey Road, Patna.
2. The Engineer in Chief, Rural Works Department, Vishweswaraiya Bhawan, Bailey Road, Patna.
3. The Chief Engineer, Rural Works Department, Vishweswaraiya Bhawan, Bailey Road, Patna.
4. The Superintending Engineer, Rural Works Department, Works Circle Gaya, District Gaya.
5. The Superintending Engineer, Rural Works Department, Works Division, Tekari, District - Gaya.
6. The Executive Engineer, Rural Works Department, Works Division, Gaya, District - Gaya.
7. The Executive Engineer, Rural Works Department, Works Division, Tekari, District - Gaya.

.... .... Respondents

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**Appearance :**

For the Petitioner : Mr. Ravindra Kumar Sinha, Advocate.

For the Respondents : Mr. Ajay, GA-5

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

ORAL JUDGMENT

**Date: 19-02-2018**

The present writ petition has been filed for quashing the order dated 28.06.2017 issued under the signature of Engineer-in-Chief, Rural Works Department, Bihar, Patna vide letter no. 7647 by which and whereunder the petitioner along with others are declared suspended and debarred from participating in the future tender and be further pleased to direct the respondent authority to expunge the name of the petitioner from the list of debar.

2. At the very outset, learned counsel appearing on behalf of the petitioner confines his prayer with regard to the impugned order dated 28.06.2017, which is arbitrary and illegal in view of the indefinite period of debarment of the petitioner. He relies on the decision of the



Apex Court in Kulja Industries Limited vs. Chief General Manager, Western Telecom Project, Bharat Sanchar Nigam Limited and others, (2014) 14 SCC 731 to submit that a debarment order cannot enure for an indefinite period.

3. Learned counsel for the respondents opposes the writ petition but however is unable to show that the impugned order debarring the petitioner for indefinite period is not in violation of the principles laid down in Kulja Industries (supra).

4. Having heard the parties and on consideration of the materials on record, this Court finds merit in the submissions of the petitioner. In Kulja Industries (supra) it was observed as follows :-

*"25. Suffice it to say that "debarment" is recognised and often used as an effective method for disciplining deviant suppliers/contractors who may have committed acts of omission and commission or frauds including misrepresentations, falsification of records and other breaches of the regulations under which such contracts were allotted. What is notable is that the "debarment" is never permanent and the period of debarment would invariably depend upon the nature of the offence committed by the erring contractor."*

5. It would appear that the principles in regard to "debarment" and "blacklisting" would be the same in view of para 21 of the said judgment, wherein it has been observed as follows:

*"21. The legal position governing blacklisting of supplies in U.S.A. and U.K. is no different. In U.S.A. instead of using the expression "blacklisting" the term "debarring" is used by the statutes and the Courts."*

6. In the above view of the matter, the impugned order dated 28.06.2017 (Annexure-3) is hereby quashed and the matter



remanded to the Chief Engineer, Rural Works Department, Patna (Respondent No. 3) for taking a fresh decision with respect to the period of debarment to be imposed upon the petitioner after grant of opportunity of hearing to the petitioner in accordance with law.

7. The writ petition stands allowed as above.

**(Vikash Jain, J)**

Md. Ibrarul/Chandran

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