

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12484 of 2015

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M/s Ajay Associates, a proprietorship having its registered office at
17 Mohaddipur, Gorakhpur, U.P. through its Proprietor Sri Ajay Kumar
Singh, son of Sri Prahlad Singh, resident of 37, Mohaddipur, P.S. Cantt.,
Dist. Gorakhpur-U.P.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Rural Works
Department, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of
Bihar, Patna.
3. Joint Secretary, Rural Works Department, Government of Bihar,
Patna.
4. Chief Engineer-3, Rural Works Department, Government of Bihar,
Patna.
5. The Executive Engineer, Rural Works Department, Work Division,
Bagaha II, West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Y.V.Giri, Sr. Adv Mr. Ashish Giri, Adv
For the Respondent/s	:	Mr. Partha Sarthi, GA 4 Mr. Apurva Kumar, AC to GA 4

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 18-12-2018

The present writ petition has been filed for
quashing the order no. 375 dated 03.07.2015 issued from
the office of the Executive Engineer, Rural Works
Department, Work Division, Bagaha II West Champaran by
which the agreement no. 12/2009-10 which includes
Package No. BR 37R-059 (Mohani to Machan), BR 37R-061
(Navgaon Bridge to Semrabari Road, BR 37R-062 (Chilwania
to Rupahi), BR 37R-063 (Chargawa to Morahid), BR 37R-064



(Dhunia Patti to Morahid), BR 37R-065 (Laxmipur to Jhinghi), BR 37R-066 (Khaura Tola Navgauva Bridge to Semarabari), BR 37R-067 (Malahi Tola to Bhudarva) has been rescinded in light of Clause 52.2(a)(c)(h) of SBD and the security deposit seized and also the registration no. 446/09 (Rural Works Department) of the petitioner has been recommended for black listing; and for connected reliefs.

2. Mr. Ashish Giri, learned counsel for the petitioner makes a short submission to assail the impugned order dated 03.07.2015 (Annexure-20) by which the agreement between the parties have been terminated with forfeiture of the security deposit and recommendation for placing the petitioner in the black list. It is submitted that a notice dated 02.07.2015 (Annexure-18) was issued without however specifying the nature of proposed action to be taken against the petitioner. Moreover, without even waiting for a reply, the impugned order was passed the very next day on 03.07.2015 in clear violation of the principles of natural justice.

3. Learned counsel for the respondents appears and resists the writ petition with reference to the counter



affidavit. The specific stand of the petitioner in para 33 of the writ petition with regard to violation of natural justice has, however, not been controverted.

4. Having heard the parties and on consideration of the materials on record, this Court finds merit in the writ petition. It is well settled that failure to grant appropriate opportunity of hearing vitiates any adverse order passed against the person. In the instant case, it is evident that the notice dated 02.07.2015 cannot even qualify as a show cause notice as the same merely contains certain averments with regard to defaults alleged to have been made by the petitioner and that measurement was to be taken. No action against the petitioner by way of termination of the agreement or forfeiture of the security deposit was proposed in the said notice and the petitioner was not called upon to furnish his defence in that behalf. The impugned order was passed the very next day, which itself manifestly establishes that no proper opportunity has been granted to the petitioner to show cause against the proposed action. The impugned order cannot, in such circumstances, be sustained and is accordingly quashed.

5. The writ petition stands disposed of with liberty



to the respondents to issue appropriate show cause notice to the petitioner, if so advised, before proceeding further in the matter.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.12.2018
Transmission Date	NA

