

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18589 of 2016

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Shiv Shankar Kumar Son of Sri Ram Lakhan Sah Resident of Mohalla
Jhanjharpur Nagar Panchayat, Ward No. 12, P.S. Jhanjharpur, District
Madhubani

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, District Management
Department, Bihar, Patna
2. The District Magistrate, Madhubani
3. The Additional Collector, Madhubani
4. The Sub Divisional Officer, Madhubani
5. The Superintendent, Divisional Jail, Madhubani

.... Respondents

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Appearance:

For the Petitioner : Mr. Murari Narain Choudhary,
Mr. Vijay Kumar, Advocates

For the Respondents : Mr. Subhash Chandra Yadav- GP15

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-03-2018

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

- (i) For quashing of the letter issued vide memo
no. 2078 dated 23.08.2016 with the signature
of learned District Magistrate, Madhubani
whereby and whereunder, the contract work
for supply of materials by this petitioner to
the Superintendent, Jail, Madhubani Sub Jail,
Jhanjharpur has been cancelled and after
putting the name of this petitioner in the black
list, the petitioner has been debarred from
taking part in any of the government tender in
future, on the ground that he had not been
able to make supply of goods to the flood
relief victims during the period of emergency
and the office has been further directed to
communicate with this order to all concerned
and a copy of this order has been
communicated to this petitioner by the



Superintendent Jail, Madhubani vide his memo no. 1783 dated 30.09.2016, contained in Annexure-1 to this application.

- (ii) For staying the implementation of impugned order (Annexure-1) during the pendency of the instant writ application.
- (iii) For any other relief or reliefs to which the petitioner is entitled for.

2. Learned counsel for the petitioner at the very outset confines the challenge in the writ petition to that part of the impugned order dated 30.09.2016 (Annexure-1) by which he has been blacklisted for an indefinite period and does not press any other ground. 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.

3. 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.”

4. 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.”

5. In the above view of the matter, the impugned order dated 30.09.2016 (Annexure-1) is hereby quashed and the matter remanded to the District Magistrate, Madhubani (Respondent No. 2) for taking a fresh decision with respect to the period of blacklisting to be imposed upon the petitioner after grant of opportunity of hearing to the petitioner in accordance with law.

6. The writ petition stands disposed of as above.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.03.2018
Transmission Date	NA

