

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9988 of 2017

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M/s Aditya Construction (Proprietor Manoj Yadav), resident of Keshavpur, Anchal + P.S.-Barahara, District-Bhojpur, through its Proprietor namely Manoj Yadav, Son of Ramashankar Yadav, resident of Keshavpur, Anchal and P.S.-Barahara, District Bhojpur.

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Rural Works Department, Bihar, Patna
3. The Engineer-in-Chief, Rural Works Department, Bihar, Patna.
4. The Chief Engineer-1, Rural Works Department, Bihar, Patna.
5. The Superintending Engineer, Rural Works Department, Work Circle, Ara.
6. The Executive Engineer, Rural Works Department, Works Division, Ara.
7. The Special Work Officer, Rural Works Department, Bihar, Patna.
8. Sri Raghvendra Pratap Singh, Ex-M.L.A., Barhara Constituency, P.O.- and P.S. Barhara, District-Ara.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajesh Kumar Sinha, Advocate
For the Respondents : Mr. Ajday-GA5
Mr. Ashish Kr. Lal, AC to GA 5

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 27-03-2018

I.A. No. 2381 of 2018

The interlocutory application has been filed with the prayer for amendment of the relevant portion of the prayer in the writ petition by adding the following prayer –

“(i) For issuance of the writ in the nature of certiorari or any other appropriate writ for quashing the order dated 10.08.2017 contained in Memo No. 9496 whereby Blacklisted the construction company namely Aditya Construction Company for 10 years without properly serving notice to the petitioner.

(ii) For other relief or reliefs as your lordships may



deem fit and proper in the facts and circumstances of the case.

2. Having regard to the nature of the prayer, the interlocutory application is allowed and the same shall be treated as forming part of the writ petition.

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3. The present writ petition has been filed for the following reliefs—

“(i) For quashing the Letter No. 772 dated 20-04-2017, issued by Special Work Officer, Rural Works Department, Government of Bihar, Patna whereby and whereunder the petitioner has been directed to be blacklisted and further directed to lodge F.I.R. without giving any show-cause notice which is against the principle of natural justice as such the impugned order is fit to be quashed.

(ii) Further after quashing the impugned order, direction may be issued to the respondents that how an Ex-M.L.A. and respondents authority mentioned M.L.A. about Sri Raghvendra Pratap Singh.

(iii) Further to issue direction to take appropriate action against the author of the impugned order as well as against respondent No. 8.

(iv) To grant any other relief(s) for which the petitioner is entitled to get in the eye of law.”

4. Learned counsel for the petitioner submits that the impugned order of blacklisting has been passed without service of



show cause notice and without grant of any opportunity of being heard in the matter. It is, therefore, submitted that such order cannot be sustained in law as it is in violation of the fundamental principles of natural justice.

5. Learned counsel for the respondents appears and relies on the supplementary counter affidavit to submit that show cause notice dated 03.08.2017 was despatched to the petitioner by ordinary post on the same day and the same was not returned and hence it is not known when the notice was served upon the petitioner.

6. It is well settled that any action of an authority which has civil consequences must conform to the principles of natural justice. It is only when a show cause notice is served that a person is made aware of the proposed action contemplated to be taken against him, in order to enable him to furnish a suitable reply in his defence. Rules of natural justice are required to be followed even in administrative action. This Court is therefore of the view that the respondents ought not to have blacklisted the petitioner-firm unilaterally without so much as issuance of prior show cause notice which has evidently caused serious prejudice to the petitioner. This view finds support from a Division Bench judgment of this Court dated 09.10.2017 passed in LPA No. 1153 of 2017 (*Kamladitya Construction Pvt. Ltd. Vs. The State of Bihar & Ors.*).

7. Accordingly, the impugned order dated 20.04.2017 passed by respondent-Officer on Special Duty, Rural Works Department, Bihar,



Patna (Annexure-5) is hereby quashed with liberty to the respondents to issue an appropriate show cause notice to the petitioner, if so advised, and proceed in accordance with law.

8. It is made clear that in case the stand of the petitioner denying non-service of show cause notice prior to the order of blacklisting being passed is found to be incorrect, the respondents shall be at liberty to approach this Court for recall of this judgment.

9. The writ petition accordingly stands allowed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.04.2018
Transmission Date	N.A.

