

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2944 of 2018

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Chandan Kumar Singh, aged about 27 years, Son of Sri Anil Kumar Singh,
Resident of Village & Post- Keshawe, P.S.- Barauni Refinery OP, District-
Begusarai

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department,
Government of Bihar, Patna.
2. The Engineer-in-Chief, Rural Works Department, Government of Bihar,
Patna.
3. The Chief Engineer-3, Rural Works Department, Government of Bihar, Patna.
4. The Executive Engineer, Rural Works Department, Work Division, Balia.
5. The Divisional Railway Manager, East Central Railway, Sonapur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ashish Kumar Lal, Advocate

For the Respondents : Mr. Ashok Kr. Gupta, AC to GP10

For the Railway : Ms. Kalpana Kumari, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-04-2018

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

*“(a) For issuance of appropriate writ(s)/order(s)/
direction(s) for quashing of the memo no. 7779 dated
27/6/2016 issued from the Office of Rural Works
Department, Government of Bihar, under the signature
of Engineer-in-Chief by which the petitioner has been
placed in the defaulter list and has been debarred from
participating in the future tender for not completing
the work within stipulated period, though admittedly
he was not responsible for delay.*

*(b) For payment of rupees eighteen lakhs & odd which
has been signed by the authority concerned as evident
from the measurement book for the construction work
which the petitioner has done for which the petitioner
has also submitted the measurement book before the*



Work Division, Balia, Begusarai.

(c) For issuance of direction upon the respondent authorities to allow the petitioner to complete the rest of the work within six months (effective after removal of the obstruction by the authorities) at revised rate as the cost of the material has also increased in comparison to what it was at the time of entering into agreement i.e. on 5/8/2014, and laches is on the part of the respondent.

(d) For issuance of direction upon the respondent authorities to say the aforesaid memo no. 7779 dated 27/6/2016 by which the petitioner has been placed in the defaulter list and has been debarred from participating in the future tender for com-completion of work within stipulated period till the pendency of the instant writ application.

(e) For grant of any other relief(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

3. At the very outset, learned counsel appearing on behalf of the petitioner confines his prayer with regard to the impugned order dated 27.06.2016, 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.

4. Learned counsel for the respondents opposes the writ petition but however is unable to show that the impugned order



debaring the petitioner for indefinite period is not in violation of the principles laid down in *Kulja Industries* (supra).

5. 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 Limited vs. Chief General Manager, Western Telecom Project, Bharat Sanchar Nigam Limited and others*, (2014) 14 SCC 731, the Apex Court 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.”

6. 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 “debaring” is used by the statutes and the Courts.”

7. In the above view of the matter, the impugned order



of debarment dated 27.06.2016 (Annexure-9) is being interfered with only to the extent that the petitioner has been barred from carrying on its business activities for an indefinite period. The matter is remanded to the Engineer-in-Chief, Rural Works Department, Government of Bihar, Patna (Respondent No. 2) 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.

8. As far as prayer nos. (b) and (c) are concerned, they constitute separate cause of action. As prayed, the petitioner is permitted to file separate writ petition for redressal of his grievances in this regard.

9. The writ petition accordingly stands disposed of.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A
Uploading Date	14.04.2018
Transmission Date	N.A.

