

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16310 of 2017

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Balmiki Prasad Singh Son of Late Dewta Prasad Singh resident of Pailagarh,
Sunauli, P.S. Kadwa, District - Katihar.

.... Petitioner

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Secretary, Rural Works Department, Bihar, Patna.
3. The Engineer-in-Chief, Rural Works Department of Bihar, Patna.
4. The Chief Engineer 2, Bhagalpur (Head Office Patna), Rural Works Department, Patna.
5. The Superintending Engineer, Rural Works Department, Works Circle, Purnea.
6. The Executive Engineer, Rural Works Department, Works Division, Purnea.

.... Respondents

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Appearance:

For the Petitioner : Mr. Lal Babu Singh, Advocate

For the Respondents : Mrs. Archana Meenakshee -GP6

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-03-2018

The present writ petition has been filed for quashing the Letter No. 7725 dated 29.06.2017 issued under the signature of Engineer-in-Chief, Rural Works Department, Bihar, Patna (respondent no. 3) whereby the petitioner has been debarred from the works of "Construction and maintenance of Rural Road from Jiyagachi Chowk to Belwa under P.M.G.S.Y." as also participation in future tenders along with other contractors; and for connected reliefs.

2. Learned counsel for the petitioner submits that the impugned order of debarment has been passed without issuance 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.

3. Learned counsel for the respondents appears and has been heard. No counter affidavit has been filed despite more than four months having elapsed since filing of the writ petition after serving a copy thereof on the respondent-State.

4. It is well settled that any action of the State having civil consequences must conform to the principles of natural justice. It is relevant to take note of the decision in *Erusian Equipment & Chemicals Ltd. vs. the State of W.B.*, (1975) 1 SCC 70 wherein the Hon'ble Apex Court observed as follows __

"20. Blacklisting has the effect of preventing a person from the privilege and advantage of entering into lawful relationship with the Government for purpose of gains. The fact that a disability is created by the order of blacklisting indicates that the relevant authority is to have an objective satisfaction. Fundamentals of fair play require that the person concerned should be given an opportunity to represent his case before he is put on the blacklist."

5. It would further appear from the decision of the Hon'ble Apex Court in *Kulja Industries Limited vs. Chief General Manager, Western Telecom Project, Bharat Sanchar Nigam Limited and others*, (2014) 14 SCC 731 that the principles in regard to "debarment" and



“blacklisting” would be the same __

“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 and without entering into the merits of the case, the impugned order as contained in letter No. 7725 dated 29.06.2017 issued by the Engineer-in-Chief, Rural Works Department, Bihar, Patna (respondent no. 3) as contained in Annexure-P/3 is hereby set aside granting liberty to the respondents to issue an appropriate show cause notice and grant reasonable opportunity of hearing before resorting to any adverse action against the petitioner.

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

8. The writ petition accordingly stands allowed.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.03.2018
Transmission Date	NA

