

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13476 of 2017

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M/s Sidhnath Construction through its proprietor Pramod Singh, S/o Sidheshwar Singh, Resident of Village - Amra, P.O.- Sohaipur, P.S.-Mufasil, District- Gaya.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Government of Bihar, Rural Works Department, Bisheshwaraiya Bhawan, Bailey Road, Patna.
2. The Engineer in Chief, Rural Works Department, Bisheshwariya Bhawan, Bailey Road Patna.
3. The Chief Engineer, Rural Works Department, Bisheshwariya Bhawan, Bailey Road Patna.
4. The Superintending Engineer, Rural Works Department, Works Division Nimchak Bathani, District-Gaya.
5. The Executive Engineer, Rural Works Department, Works Division Nimchak Bathani, District-Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ravindra Kumar Sinha, Advocate

For the Respondents : Mr. Kumar Alok-SC7

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-02-2018

Heard learned counsel for the petitioner as well as learned counsel for the respondents.

2. The present writ petition has been filed for quashing the order dated 28.06.2017 issued under the signature of Engineer-in-Chief, Rural Works Department, Bihar, Patna vide letter no. 7647 whereby and whereunder the petitioner along with others are declared suspended and debarred from participating in the future tender; and for connected reliefs.

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



28.06.2017, 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 on the basis of the counter affidavit, but however is unable to show that the impugned order debarring 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 (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."

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 “debarring” is used by the statutes and the Courts.”

7. In the above view of the matter, the impugned order dated 28.06.2017 (Annexure-3) is hereby quashed and the matter remanded to the Chief Engineer Rural Works Department, Government of Bihar, Patna (Respondent No. 3) 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. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.02.2018
Transmission Date	N.A.

