

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10768 of 2018

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M/s Ganesh Ram Dokania, a partnership firm having it's place of business at Aliganj, Banka through it's authorised signatory namely Tapan Kumar Singh, Son of Jatin Chandra Singh, Resident of House No. 13, C/o Rekha Devi, Road No. 7, Indradpuri, Patna Keshri Nagar, Patna- 800024.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Department of Building Construction, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Building Construction, Govt. of Bihar, Patna.
3. The Engineer in Chief cum Additional Commissioner cum Special Secretary Department of Building Construction Govt. of Bihar, Patna.
4. The Additional Secretary cum Commissioner Financial Advisor, Department of Building Construction, Govt. of Bihar, Patna.
5. The Chief Engineer (South) Department of Building Construction Vishveshwariya Bhawan, Bailey Road, Patna.
6. The Executive Engineer, Department of Building Construction Building Division, Banka.

.... Respondents

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Appearance :

For the Petitioner : Mr. Gautam Kejriwal
Mr. Alok Kumar Jha
Mr. Atal Bihari Pandey, Advocates.
For the Respondents : Mr. Sushil Kumar, GP-22

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT
Date: 22-06-2018

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition has been filed for the
following reliefs -

*“(a) For issuance of a writ in the nature of certiorari for
quashing of the office order communicated vide letter*



bearing memo no. 5122 (bha) dated 29.05.2018 issued by the respondent-Engineer in Chief cum Additional Commissioner cum Special Secretary, Building Construction Department, Govt. of Bihar, Patna with copies circulated to all the departments of the State of Bihar;

(b) For restraining the respondents from executing the aforesaid impugned order as contained in the impugned letter bearing memo no. 5122 (bha) dated 29.05.2018 with respect to other ongoing contracts of the petitioner.

(c) For further restraining the respondents from depriving the petitioner or in any manner affecting the participation of the petitioner in any of the tenders invited by any Government department of the State of Bihar and any of the corporation or company etc. in light of the impugned office order as the same is illegal, arbitrary and violative of principles of natural justice;

(d) For holding and a declaration that the impugned office inflicting punishment of suspension of the petitioner's registration for a period of one year from the date of issuance of the aforesaid office order ought to have dealt with the detailed reply submitted by the petitioner through letter dated 05.03.2018 and repeated through letter dated 26.03.2018 and a speaking order should have been passed dealing with each and every contention of fact as well as law incorporated in the said reply and in absence of which the impugned office order suffers from the error of violation of principles of natural justice for being non speaking and unreasoned;

(e) For further holding and a declaration that the impugned office order having not dealt with the issues of facts as well as law raised by the petitioner may not be



allowed to sustain in the yes of law as the same has the drastic consequences of suspending the whole business activity of the petitioner as a contractor for a period of one year which is violative of the Fundamental Right of the petitioner for freedom of trade and profession in terms of Article 19(1)(g) of the Constitution of India;
(f) for grant of any other relief or reliefs to which the petitioner is found entitled to in the facts and circumstances of the case."

3. Learned counsel for the petitioner raises a short submission to the effect that renewal of the petitioner's registration has been suspended for a period of one year without consideration of his show cause reply as evident from the impugned order dated 29.05.2018 (Annexure-9).

4. Learned counsel for the respondents appears and informs that no counter affidavit has been filed so far. Considering the nature of the impugned order as passed, it does not appear necessary to grant time for filing of counter affidavit.

5. From a perusal of the impugned order itself, it is clear that the petitioner had filed his show cause reply, which has been enclosed as Annexure-6 to the writ petition. The impugned order has been passed rejecting the show cause reply of the petitioner without however assigning a single reason whatsoever why such show cause reply was not acceptable. There is no discussion in the order with



regard to the plea raised by the petitioner in his show cause reply and why the same did not find favour with the authority. In such circumstances, therefore, it must be held that the impugned order does not amount to a speaking order and is thus violative of the principles of natural justice which cannot be sustained in law.

6. In the above view of the matter, the impugned order dated 29.05.2018 (Annexure-9) is hereby set aside and the matter remanded to the Engineer in Chief cum Additional Commissioner cum Special Secretary, Department of Building Construction, Govt. of Bihar, Patna (respondent no. 3) for passing a speaking order after grant of opportunity of hearing to the petitioner and upon consideration of show cause reply dated 05.03.2018 (Annexure-6) in accordance with law.

7. The writ petition stands allowed.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.06.2018
Transmission Date	N.A.

