

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11916 of 2018

Flowmore Limited, having its Corporate Office situated at - 443, Udyog Vihar, Phase - III, Gurgaon, Haryana - 122016 and its regional office situated at - H/o Sri S.K. Sharma, Flat No. 203, Ashiana Digha Road, P.S. - Digha, Patna - 800025, through its Assistant General Manager (A.G.M.) namely Safat Nazim.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Engineer in Chief, Irrigation Creation, Water Resources Department, Government of Bihar, Patna.
4. The Engineer in Chief (South), Water Resources Department, Government of Bihar, Patna.
5. The Chief Engineer (Mechanical), Water Resources Department, Government of Bihar, Patna.
6. The Executive Engineer, Irrigation Mechanical Division, Chapra.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Kalikant Jha, Adv

Mr. Ravindra Kumar Shukla, Adv

Mr. Manish Jha, Adv

For the Respondent/s: Mr. AC to AAG4

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-07-2018

The present writ petition has been filed for quashing a part of letter No. 1546 dated 04.05.2018 whereby the effective date of recall of blacklisting of the petitioner company has been clarified/ordered to be 13.03.2018 instead of retrospectively from 20.10.2017.

2. Learned counsel for the petitioner submits that firstly by



order dated 13.03.2018 (Annexure-9) the order of blacklisting of the petitioner was recalled and its registration restored. Subsequently on review of the said order, the Principal Secretary, Water Resources Department, Government of Bihar, Patna (Respondent No. 2) noticed the submissions of the petitioner firm that the project had been successfully erected and commissioned as per design and requirement of the tender to the satisfaction of the Department as intimated by letter dated 20.10.2017. In this backdrop it was observed in the order dated 26.04.2018 (Annexure-10) as follows –

“Since the cause of action has been mitigated on dated 20.10.2017 itself with intimation to the department, it would be beyond the realm of natural justice to continue the blacklisting order in the intervening time period in between 20.10.2017 to 12.03.2018 and that the firm should not be allowed to suffer on account of delay in observance of mere procedural formalities of recalling of blacklisting order by the department.

The plea of the firm is accepted. The blacklisting order is annulled and the registration no. 30/2013 (Category-I) is restored since 20.10.2017.”

3. Learned counsel for the petitioner therefore, submits that the plea of the petitioner having been accepted, the blacklisting order for the intervening period from 20.10.2017 to 12.03.2018 was found to be contrary to natural justice and as such the same was annulled. In this backdrop therefore, the order dated 04.05.2018



(Annexure-11) seeking to clarify the order dated 26.04.2018 by holding that the recall of the blacklisting order would only have effect prospectively w.e.f. 13.03.2018 is wholly arbitrary. Moreover, it is contended that such order has been passed without any opportunity of hearing to the petitioner. Learned counsel for the petitioner contended on the basis of averments made in para 4.16 of the writ petition, that no prior notice of hearing was granted before the impugned order was passed.

4. Learned counsel for the respondent-State appears and has been heard.

5. Having heard the parties and on consideration of the materials on record, this Court finds merit in the writ application. The nature of the order dated 26.04.2018 leaves no manner of doubt that the period of blacklisting for the intervening period between 20.10.2017 to 12.03.2018 also stood recalled, inasmuch as the order dated 26.04.2018 duly accepted the plea of the firm in this behalf. The impugned order dated 04.05.2018 seeking to undo the effect of the order dated 26.04.2018 (Annexure-10) visits the petitioner with civil consequences and could not have been passed without any opportunity of hearing.

6. In the above circumstances, the impugned order dated 04.05.2018 (Annexure-11) is hereby quashed and the matter is



remanded to the Principal Secretary, Water Resources Department, Government of Bihar, Patna (Respondent No. 2) for passing orders afresh, if so advised, after issuing appropriate show cause notice and grant of reasonable opportunity of hearing to the petitioner in accordance with law.

7. It is made clear that in case the plea of the petitioner that no reasonable opportunity has been granted prior to blacklisting is found to be incorrect, the respondents shall be at liberty to approach this Court for recall of this judgment.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.07.2018
Transmission Date	NA

