

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22805 of 2018

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Nalanda Engicon Pvt. Ltd. Son of Late Sachidanand Prasad having its
Registered Office at 14 Shri Ram Tower, West of Jalan Shop, Main
Road, Kankarbagh, P.S.-Kankarbagh, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
2. The Engineer in Chief, Public Health Engineering Department, Government of Bihar, Patna.
3. The Chief Engineer, Public Health Engineering Department, Government of Bihar, Patna.
4. The Superintending Engineer, Public Health Engineering Department, Government of Bihar, Patna.
5. The Executive Engineer, Public Health Engineering Division, Patna West, Public Health Engineering Department, Government of Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Shekhar Singh, Advocate Mr. Sumit Kumar, Advocate
For the Respondent/s	:	Mr. U.P. Singh, A.C. to SC4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

- 2. 17-01-2019** Although the matter has been listed under the heading
“For Orders (On Petitions)”, with consent of the parties, the writ
application has been taken up for final disposal.

The order as contained in Memo No. 2399 dated
25.10.2018 issued under the signature of Executive Engineer,
Public Health Division, Patna West, Patna (Annexure-10 to the



writ application) is under challenge in the present writ application.

By the impugned order, the contract in question has been terminated, the performance security has been forfeited and a recommendation has been made to the competent authority to blacklist the petitioner for a period of five years.

Learned counsel representing the petitioner has raised a short point for entertaining the present writ application keeping in view the limited scope and ambit of the writ jurisdiction within which the impugned order could have been examined by this court. It is pointed out that vide letter No. 1835 dated 21.08.2018 as contained in Annexure-7, the petitioner was called upon to show cause as to why the contract in question be not terminated, the performance security is not forfeited and his name be not placed in the blacklist.

On receipt of the show cause, the petitioner submitted his reply vide his letter dated 01.09.2018 (Annexure-8) and letter dated 24.10.2018 (Annexure-9) to the writ application, but surprisingly, when the impugned order (Annexure-10) is issued, the petitioner finds that there is no reference of his replies to the show cause. In fact, author of the impugned order as contained in Annexure-10 has not taken care of going into those replies



and has passed the impugned order in violation of principles of natural justice.

Learned counsel for the State is present. At first instance, learned counsel prays for counter affidavit but when this court questioned him as to whether the respondent State can legally justify the impugned order as contained in Annexure-10 by bringing reasons in support thereof in their counter affidavit, learned counsel for the State has fairly acknowledged the settled proposition of law that if the non-consideration of the reply is apparent on the face of Annexure-10, the respondent authorities perhaps would not be justified in answering those replies by way of a counter affidavit.

In the opinion of this court, the law is well settled on this behalf. The respondent authorities have passed the impugned order as contained in Annexure-10 without looking into the replies of the petitioner, therefore the order suffers from violation of principles of natural justice and is liable to be quashed on this ground alone.

The order as contained in Memo No. 2399 dated 25.10.2018 (Annexure-10 to the writ application) is hereby quashed.

The competent authority, in terms of the contract may



now proceed to consider the replies of the petitioner, consider the same and pass an appropriate order in accordance with the terms of the contract.

This writ application is allowed in terms indicated hereinabove.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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