

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.639 of 2018

In

Civil Writ Jurisdiction Case No.5053 of 2017

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Sanjay Kumar Singh Son of Late Sanjiwan Sharma, Resident of A-57,
Sachiwalaya Colony, P.S.- Kankarbag, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Engineer-in-Chief, Rural Works Department, Government of Bihar, Patna.
4. The Chief Engineer, Rural Works Department, Government of Bihar, Patna.
5. The Executive Engineer, Rural Works Department, Work Division- Muzaffarpur, East-2.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. P.K. Shahi, Senior Advocate
Mr. Vikas Kumar, Advocate
For the Respondent/s : Mr. Manish Kumar, A.C. to A.A.G.-6

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-06-2019

Heard learned counsel for the appellant and learned
counsel for the respondent State.

The impugned decision of the court has been
assailed on the ground that the court has failed to take notice of
the fact that before black-listing the appellant vide order dated



4th January, 2016 no notice or opportunity had been given to the appellant to furnish his explanation. Learned counsel submits that the order impugned being in violation of principles of natural justice, the writ petition deserved to be entertained and allowed.

From the order dated 9th February, 2018, we find that the learned Single Judge has noted the absence of the learned counsel for the petitioner, yet on the merits of the writ has proceeded to dismiss it on the ground of non-completion of work despite reminders to which the appellant did not respond and, therefore, the Department was not left with any choice except to black-list the appellant.

This appeal was entertained and the following order was passed on 22nd June, 2018 by a Division Bench of this Court:-

“Delay of 52 days in filing of the appeal is condoned and I.A. No. 3561 of 2018 stands allowed and disposed of.

Respondents to file their counter affidavit and indicate to this court as to whether any show cause was issued to the petitioner and he was heard before taking the impugned action against him.

Let a counter affidavit indicating this fact be filed within three weeks.”

The counter affidavit in para 10, which has been



filed in response to the said order, narrates about the issuance of notice after 4.1.2016, but there is nothing on record to indicate that the appellant was ever put to notice prior to that. It is further evident from the counter affidavit filed in this appeal that the work contract about which the complaint had been made has also been rescinded for which the petitioner has filed a petition before the Works Tribunal.

In the said circumstances, the black-listing order of the appellant has been rendered without giving any notice to him which fact is evident from the contents of the counter affidavit filed in this appeal.

However, in the background aforesaid, since the appellant had himself not appeared before the learned Single Judge, we deem it fit and proper on the facts and circumstances of the present case as a measure of post-decisional hearing that the appellant may represent his case before the concerned authority who has passed the impugned order dated 4th of January, 2016 for consideration of his explanation, if any, in relation thereto and then pass an appropriate order within three months from the date of receipt/production of a certified copy of this order.

With the aforesaid directions the impugned



judgment of the learned single Judge is modified and the appeal stands disposed of accordingly.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Saif/-

AFR/NAFR	
CAV DATE	N.A.
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