

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5612 of 2021

Arvind Kumar Son of Late Yogeshwar Prasad Singh, Village-Nirpur, P.O. and P.S.-Athmalgola, District-Patna, at present Resides at Mohalla-Patel Nagar, Shakuntala Enclave, Flat No. 401, Sahajanand Path, P.O.-Pate, Nagar, Patna-23.

... .. Petitioner

Versus

1. Bihar State Building Construction Corporation Ltd. (A Govt. of Bihar undertaking), through its Managing Director, Hospital Road, Shastri Nagar, Patna-800023.
2. The Managing Director, Bihar State Building Construction Corporation Ltd. (A Govt. of Bihar undertaking), Hospital Road, Shastri Nagar, Patna-800023.
3. The Chief General Manager, Bihar State Building Construction Corporation Ltd. Patna (A Govt. of Bihar undertaking), Hospital Road, Shastri Nagar, Patna-800023.
4. The General Manager (North), Bihar State Building Construction Corporation Ltd. Patna (A Govt. of Bihar undertaking), Hospital Road, Shastri Nagar, Patna-800023.
5. The Deputy General Manager, Bihar State Building Construction Corporation Ltd. Patna (A Govt. of Bihar undertaking), (PIU), House of Sri Abhaya Singh, Bangali Tola, Lahariasarai, Darbhanga.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Bindhyachal Singh, Senior Advocate Mr. Manish Sahay, Advocate
For the Respondents	:	Mr. Tej Bahadur Singh, Senior Advocate Mr. Brisketu Sharan Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 28-10-2021 The petitioner has put to challenge an order issued vide letter No. 598 dated 01.12.2020 under the signature of Deputy General Manager, Bihar State Building Construction Corporation Limited (Corporation for short) (respondent No. 5), whereby the petitioner's 'registration' has been debarred. Assailing the impugned order, it is the petitioner's case that no



notice was ever issued to the petitioner disclosing proposed action of debarment. The petitioner was awarded some construction work by the Corporation and allegedly the petitioner failed to execute the work within the stipulated time.

Mr. Bindhyachal Singh, learned Senior Counsel appearing on behalf of the petitioner has argued that it is evident from the show cause notice dated 29.08.2020, which has been brought on record by way of Annexure-R1/4 to the counter affidavit filed on behalf of the Corporation that it does not disclose proposed action of debarment. He contends that in the light of the Supreme Court's decisions in various cases, it was incumbent upon the Corporation to have indicated in the show cause notice itself about the proposed action of debarment. The same having not been done, the impugned action requires interference by this Court. He has secondly submitted, with reference to a letter dated 26.06.2020 issued by respondent No.5 addressed to Chief General Manager of the Corporation, that he himself had recorded reasons why the work could not be executed within the time stipulated in the agreement and had recommended for extension of time for completion of the work. He has submitted that while on the one hand the respondent No. 5 had recommended extension of time for completion of work,



on the other hand, without any proper notice, he passed the impugned order dated 01.12.2020 for debarment, which is arbitrary and, therefore, illegal.

Mr. Tej Bahadur Singh, learned Senior Counsel appearing on behalf of the respondent Corporation, on the other hand, has submitted that since despite repeated reminders to the petitioner he was failing to execute the work in question, it was considered desirable to take certain action against him. He submits that since the impugned order does not completely debar the petitioner from award of future contract, it cannot be treated to be an order in the nature of black-listing; rather, by the said order, the petitioner has been asked to complete the work awarded to him. Till he completed the said work, he would be debarred from award of future contracts according to the impugned order, he contends.

I am satisfied with the submission advanced on behalf of the petitioner that the show cause notice dated 29.08.2020 does not disclose the proposed action for debarment against the petitioner. The impugned order of debarment dated 01.12.2020, thus, deserves to be interfered with and is accordingly set aside. It will, however, be open for the competent authority to take appropriate action in accordance with law, if according to it the



petitioner is liable for any action for non-completion of the work in question.

This application is allowed with the aforesaid direction and observation.

(Chakradhari Sharan Singh, J)

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