

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18316 of 2021

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Brajesh Kumar S/o-Suresh Prasad Sharma, Resident of 301 Raj Complex, 90 Feet Road, Jyoti Raj Complex, Kankarbagh, P.O. District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
2. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
3. The Joint Secretary, Public Health Engineering Department, Government of Bihar, Patna.
4. The Engineer-in Chief Cum Special Secreary, Public Health Engineering Department, Government of Bihar, Patna.
5. The Superintending Engineer, Public Health Design and Planning, Circle No.-4, Patna.
6. The Executive Engineer, Public Health Division, Gaya.
7. The Assistant Engineer, Public Health Division, Gaya West

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vikas Kumar
For the Respondent/s : Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

2 15-12-2021 The petitioner has assailed an order dated 30.06.2021 issued by the Executive Engineer, Public Health Division, Gaya, whereby he has been debarred from participating in future tenders. The order has apparently been issued under Bihar Contractor Registration Rules 2007 (hereinafter referred to as the '2007 Rules'), invoking sub-rule (2) of Rule 11(क) of the



Rules.

Mr. Vikas Kumar, learned counsel appearing on behalf of the petitioner, has submitted that the impugned order has been passed in violation of the Principal of Natural Justice in as much as before issuance of said order no opportunity was given to the petitioner to submit his representation against proposed action of the debarment. He has further submitted that the order of debarment is for an indefinite period which is impermissible in view of the law laid down by the Supreme Court and this Court also.

Be that as it may, the petitioner has alternative remedy of appeal under the 2007 Rules itself which the petitioner has not invoked.

Considering the facts and circumstances, this writ application is disposed of with a liberty to the petitioner to approach the Appellate Authority against the impugned order. On noticing the provisions under the 2007 Rules, it is evident that limitation of 30 days is prescribed for preferring appeal before the Appellate Authority.

In such circumstance, it is observed that if the petitioner prefers appeal before the Appellate Authority within two weeks from today, the Appellate Authority shall condone



delay in preferring appeal and decide the petitioner's case on merits, particularly, the contention that the impugned order has been passed without giving petitioner any opportunity of hearing and that no term of debarment has been stipulated in the impugned order. Debarment of a contractor has serious consequences. It is, therefore, observed that if the appeal is preferred within the aforesaid period of two weeks, the same must be disposed of within a period of two months thereafter.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

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