

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20242 of 2019

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M/s Sanjay Printing Works Through its Partner Nawin Chandra Jaiswal, Male, aged about 61 years, son of Late (Dr.) Mathura Prasad Jaiswal, resident of mohalla- Gurhatta, P.S. Khajekalan, Patna City, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Secretary Department of Education, Government of Bihar, Patna.
3. The Managing Director Bihar State Text Book Publishing Corporation Limited (undertaking of the Government of Bihar) Pathya Pustak Bhawan, Budha Marg, Patna- 800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. V.M.K. Sinha, Sr. Adv Mr.Ajay Prasad, Adv Mr. Kaushal Kumar, Adv
For the respondent no.3	:	Ms. Anukriti Jaipuriyar, Adv
For the State	:	Mr.Kameshwar Kumar (GP17) Mr. Arbind Kumar, AC to GP-17

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-11-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

“That this writ application is for quashing the order dated 29th August 2019 passed by the Respondent No. 3, Managing Director, Bihar State Text Book Publishing Corporation Limited, which has been communicated to the petitioner vide Letter No. 3063 dated 30.08.2019 whereas the order of the petitioner vide Order No. 2717 dated 21.03.2019 has been cancelled with immediate effect as well as also debarred from empanelment from the list as well as Kandika -14 and further the petitioner firm is blacklisted for the period of ten years without any opportunity of hearing, therefore the order passed by the Respondent No. 3 is wholly

without jurisdiction.”

After the matter was heard for sometime Mr. V.M.K. Sinha, learned senior counsel, confines the scope of the petitioner only with respect to the quantum of period for which the petitioner stands blacklisted, disabling him from participating in the award of printing works of Bihar State Textbook Publishing Corporation Ltd. With the impugned notice dated 30.08.2019, petitioner stand debarred for the period of 10 years.

Given the attending facts and circumstances, we find the quantum to be highly disproportionate, more so, for the reason that the allegations emanating from the record with respect to petitioner's misconduct is only on two counts:-

(a) He did not complete the work of printing the books within the specified period;

(b) He got some of the books published/printed from unauthorized printers.

Petitioner invites our attention to the previous litigation with respect to the earlier contracts in relation to which several orders came to be passed by this Court though not averred, but orally argued the impugned action is a result of initiation of such proceeding.

While we do not express opinion on this aspect of the matter, but do find that in relation to the period of 3 years for which the petitioner was awarded work, he successfully completed the work in terms of the specifications enumerated in the tender as also the subsequent instructions stipulated in the work order. It is in these circumstances, we find to be persuaded to arrive at a conclusion of the order debarring the petitioner for a period of 10 years to be grossly disproportionate to the alleged misconduct. The order was passed on 30.08.2019, no work stands allotted to the petitioner since then.

Petitioner has already suffered for a period of two years. Ordinarily, we would have closed the matter here itself by accounting such period for the purposes of passing the order with respect to the period of blacklisting but, however, we refrain from doing so, particularly when we are informed that there is change in the management of the institution, and as such remand the matter back to the respondent no. 3 namely the Managing Director Bihar State Text Book Publishing Corporation Limited, for taking a decision afresh, only on the issue of quantum for the period for which the petitioner would be debarred for the purposes of participating in the work of Bihar State Textbook Publishing Corporation Ltd.

The petitioner shall appear before the authority on 06.12.2021, and place additional material in support of his contentions.

We expect the authority to pass the order, dispassionately, in accordance with law, within a period of four weeks thereafter.

Liberty reserved to the petitioner to approach the court, if the need so arises subsequently on the same and subsequent cause of action.

The writ petition is accordingly, disposed of in the aforesaid terms.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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