

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4125 of 2022

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Samir Kumar Son of Siya Sharan Thakur, Resident of Ward No. 5, Dumra,
Sitamarhi Bihar - 843301.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Building Construction, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Building Construction, Govt. of Bihar, Patna.
3. The Engineer in Chief Cum Additional Commissioner Cum Special Secretary, Department of Building Construction, Govt. of Bihar, Patna.
4. The Chief Engineer (North), Department of Building Construction, Govt. of Bihar, Patna.
5. The Executive Engineer, Department of Building Construction, Building Construction Division, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Gautam Kumar Kejriwal, Adv
For the Respondent/s	:	Mr.Manoj Kr. Ambastha (SC26)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-05-2022

Heard learned counsel for the parties.

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

- a) For issuance of a writ in the nature of certiorari for quashing of the ex parte order dated 13.08.2021 issued vide memo number 4517 (bh) Patna by the respondent number 3 whereby the petitioner has been communicated the decision of suspension of his registration with the Building Construction Department, Government of Bihar for a period of three years from the date of issuance of the said order;
- b) For issuance of a writ or order or direction restraining the respondents from executing the said order dated 13.08.2021 issued vide memo number 4517 (bh) Patna against the petitioner in any of the tenders which the petitioner has participated but is yet to be finalized and those in which the petitioner may choose to participate in future;
- c) For further holding and a declaration that the impugned order dated 13.08.2021 issued vide memo number 4517 (bh) Patna is in teeth of the principles of natural justice, fairness, reasonableness and also transparency and therefore invalid and unsustainable in the eye of law;
- d) For further holding and a declaration that the impugned order dated 13.08.2021 issued vide memo number 4517 (bh) Patna has the direct effect of infringing the petitioner's fundamental rights guaranteed under Article 14, 19 (1) (g) of the Constitution of India and as such ought to have been preceded by a procedure satisfying all the requirements of principles of natural justice, fairness, reasonableness and due transparency;

The impugned order dated 13.08.2021, passed by Respondent No. 3, namely the Engineer-in-Chief cum Additional Commissioner cum Special Secretary Department of Building Construction, Govt. of Bihar, Patna, is a cryptic and

non-speaking order and entails civil consequences as it affects the petitioner's rights.

In view of the submissions made and the grounds mentioned in the petition, the impugned order dated 13.08.2021, passed by Respondent No. 3, namely the Engineer-in-Chief cum Additional Commissioner cum Special Secretary Department of Building Construction, Govt. of Bihar, Patna is quashed and set aside, with liberty to the petitioner to approach Respondent No. 3 afresh.

Petition is disposed of in the following terms:

(a) The petitioner shall make himself available before the Respondent No. 3, namely the Engineer-in-Chief cum Additional Commissioner cum Special Secretary Department of Building Construction, Govt. of Bihar, Patna on **27.05.2022**;

(b) On the said date, the entire material shall be supplied to the petitioner;

(c) Within two weeks thereafter, petitioner shall file response, complete in all respects;

(d) Petitioner shall fully cooperate and not take any unnecessary adjournment;

(e) The officer shall pass an order assigning reasons within a period of three months thereafter;

(f) While considering such request, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

(g) Liberty reserved to the petitioner to challenge the order, should the need so arise subsequently.

The petition is disposed of in the aforesaid terms.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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