

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8501 of 2021

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M/s Lal Construction Belwanawa Construction through its Proprietor namely Ramendra Kumar Singh aged about 51 Years, Gender-Male, Son of Lal Babu Singh, Resident of -Ward No. 23, Opposite Zila Parisha Gate Road, Belwanwa, Motihari, P.S.-Belwanwa, District-Motiahri, East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Engineer-In-Chief, Rural Works Department, Government of Bihar, Patna.
3. The Chief Engineer-3, Rural Works Department, Government of Bihar, Patna.
4. The Supetintending Engineer, Rural Works Department, Work Circle, Motihari, East Champaran.
5. The Executive Engineer, Rural Works Department, Work Division, Motihari, East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ranjeet Kumar, Advocate
For the Respondent/s	:	Mr.Kameshwar Prasad Gupta (GP10)
		Mr. Satya Vrat (AC to GP-10)

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

Date : 24-02-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following
relief(s).

“ I. For setting aside the order contained in Memo NO. 7779 dated 27.06.2016 issued under the signature of Engineer in Chief, Rural Works, Department Work Division, Government of Bihar, Patna whereby

and wherunder petitioner has been debarred from participating in future tender with the immediate effect on ground of completion of work namely **“Pipla Kithi N.H. 28, Shivmandir, Mathurapur (179) via Panditpur’** whereas work in question has already been completed by the petitioner and payment for the same has also been made.

(II) For setting aside the common order contained in Memo No. 1379 dated 14-02-2019 issued under the signature of Engineer in Chief, Rural Works Department, Government of Bihar, Patna whereby and where under petitioner registration has been blacklisted for 10 years with respect to work namely **‘Jatwa to Janerwa Road, Gropu No. 11, Package No. BR-11 R-088 under PMSY’** in terms of Rule 11 (A) (Vi) of Departmental Resolution No. 8123 dated 19-12-2007 and Rule 8.1 (a) of Departmental Order No. 154 dated 18-06-2015 without considering the reply to show cause of the petitioner.

(III) For setting aside the common order contained in Memo No. 78 dated 11-01-2020 issued under the signature of Executive Engineer, Rural Works Department, Works Division, Motihari whereby and where under he has restituted the order contained in Letter No. 2362 dated 01-12-2018 by which agreement of the petitioner has been rescinded as the same has already been set aside by the empowered committee vide order dated 01-07-2019 and as such once any order which been set aside by the Higher Authority cannot be restituted by the authority subordinate to him and it is also bad in law on account of fact that

the concerned respondent did not consider the application of the petitioner dated 31-07-2019 the work could be started on account of situation beyond the control of the Petitioner and without issuing any show cause.

IV. For setting aside the NIT bearing NIT No RWD/MOTIHARI/PMGSY/15/ET/19-20 published in the daily news paper dated 25-01-2020 with respect to work in question namely Jatwa Link Route No. 23 - Janerwa (59), Package No. BR-11 R-088 under PMGSY.

V. For any other relief/reliefs for which petitioner may be deemed entitled too.”

Sri Ranjeet Kumar, Learned counsel for the petitioner states that the present petition is restricted qua prayer Relief Nos. I and II.

On 03.01.2022, we had passed the following order:-

“Shri S. Raza Ahmad, learned Additional Advocate General No. 5 appears on behalf of the State.

At this stage, notice is confined only with respect to Prayer Clause (ii), which reads as under:-

“II. For setting aside the common order contained in Memo No. 1379 dated 14.02.2019 issued under the signature of Engineer in Chief, Rural Works Department, Government of Bihar, Patna whereby and where under petitioner registration has been blacklisted for 10 years with respect to work namely ‘Jatwa

to Janerwa Road, Gropu No. 11, Package No. BR-11R-088 under PMSY' in terms of Rule 11(A)(Vi) of Department Resolution No. 8123 dated 19.12.2007 and Rule 8.1(a) of Departmental Order No. 154 dated 18.06.2015 without considering the reply to show cause of the petitioner.”

Let response be filed by the respondents positively within a period of three weeks from today. Rejoinder thereto, if any, be filed within a period of three weeks thereafter.

Pendency of the present petition shall not come in the way of the respondent authorities in finalizing the fresh tender published in the daily newspaper “Dainik Jagran” dated 25th of January, 2020.

In fact, we are of the considered view that the authorities must expedite such process to ensure that public work of construction of road under the ‘Pradhan Mantri Gramin Sarak Yojana’ is not delayed any further.

We direct Respondent No. 1, namely the Principal Secretary, Rural Work Department, Government of Bihar, Patna to personally ensure compliance of the order.

List this case on 25th of January, 2022.

Shri S. Raza Ahmad, learned Additional Advocate General No. 5 undertakes to communicate the order to the said respondent during the course of the day.”

So far as Relief No. II is concerned, our attention is invited to the decision rendered by a co-

ordinate Bench of this Court in C.W.J.C. No. 2625/2021, titled as M/s Satyendra Kumar and Co. Const. Pvt. Ltd., Vs. The State of Bihar decided on 24.01.2022 as also in C.W.J.C. No. 15824 of 2021, titled as M/s Sudheer Kumar Jha Vs. The State of Bihar & Ors., decided on 8th of February, 2022.

In the aforesaid decisions, we have elaborately discussed the principles where consequences of non-compliance of the rules/scheme formulated by the State as also the principle of proportionality which, in the instant case, we find to be directly applicable, for the petitioner stands blacklisted for a period of 10 years.

As such, we quash and set aside the order bearing Memo No. 1379 dated 14-02-2019 issued under the signature of Engineer in Chief, Rural Works Department, Government of Bihar, Patna with liberty to the respondent to take appropriate action in accordance with law.

Needless to add, as and when any decision is taken by the authorities, it shall be open for the petitioner to take recourse to such remedies as are otherwise available in accordance with law.

Instant petition stands disposed of in the
aforesaid terms.

Interlocutory Application(s), if any, stands
disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	