

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.11825 of 2021**

=====

Sanjay Kumar Son of Shree Ramyash Ray, Resident of Near Jain College,  
Eastern Gate, Sankat Mochan Nagar, P.S. Ara Nawada, District Bhojpur,  
Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Engineer in Chief (Head Quarters), Water Resources Department, Government of Bihar, Patna.
3. The Chief Engineer, Flood Control, Water Resources Department, Samastipur, District Samastipur, Bihar.
4. The Superintending Engineer, Flood Control Circle, Darbhanga, District Darbhanga, Bihar.
5. The Executive Engineer, Water Ways Division, Darbhanga, District Darbhanga, Bihar.

... .. Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr.Prabhat Ranjan, Advocate  
For the Respondent/s : Mr.Lalit Kishore (Ag)

=====

**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE S. KUMAR**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE S. KUMAR)**

**(The proceedings of the Court are being conducted through  
Video Conferencing and the Advocates joined the proceedings  
through Video Conferencing from their residence.)**

**Date : 25-01-2022**

Petitioner has prayed for following reliefs:-

(I) Quashing of the Notice to show cause bearing letter no.1441 dated 25.05.2021 (Annexure 6) issued by the Engineer in Chief (Head Quarters) requiring the petitioner to submit the show cause reply against the contemplated action of Blacklisting in terms of Clause 11 (Ka) (viii) of the Bihar Contractor Registration Rules, 2007; and

(ii) Issuance of a writ in the nature of prohibition, restraining the respondents from proceeding further in

connection with the impugned Notice to show cause bearing Letter No.1441 dated 25.05.2021 during the pendency of the instant writ petition.”

Petitioner is registered class II contractor under the Bihar Contractor Registration Rules, 2007 and in response to NIT No.3/20-21, petitioner submitted and participated in bid and was declared lowest bidder. He was awarded the contract and work order was issued to him in terms of NIT. Petitioner furnished the performance guarantee and security deposit in form of bank guarantee and thereafter petitioner was asked to sign the contract agreement in the office for execution of work. However, as petitioner was detected Covid positive, he was not in a position to execute the agreement, as a consequences of in terms and conditions of the NIT, the bank guarantee and performance guarantee was forfeited and further show cause notice was issued for blacklisting of petitioner against which, present writ petition has been filed.

It is submitted on behalf of counsel for the petitioner that the show cause notice issued for blacklisting does not fulfill the conditions as stipulated under the Bihar Contractor Registration Rules, 2007 under clause 11 (Ka) (viii), as such, said show cause notice being dehors of Rules is fit to be quashed. It is submitted that Rule 11(ka)(viii) stipulates blacklisting in case of failure to execute the agreement on more

than one occasion, however, in case of petitioner, it was his first default, as such, said Clause was not applicable in his case.

Heard counsel for the petitioner and counsel for the State.

Show cause notice issued can be quashed by this Court under its writ jurisdiction if the same is issued by an authority who is not authorized/competent to issue the show cause notice or the same has been issued dehors the Rules.

In present case, both the parameters are lacking.

Petitioner neither disputes the competence of the authority, who has issued the show cause notice nor it is dehors the Rules. In the show cause notice itself, three defaults in executing the contract has been noticed and whether it were with respect to same transaction or different transactions cannot be gone into at this stage. It is also not known whether there has been any default by the petitioner in execution of agreement in past or not.

Only show cause notice has been issued to the petitioner and final decision is yet to be taken by the authority after considering the reply of the petitioner. It is always open for the petitioner to satisfy the authority that no case of blacklisting is made out against him under clause 11 (Ka) (viii)

of the Bihar Contractor Registration Rules, 2007 and his reply should be accepted and proceeding be dropped.

In such view of the matter, no case of interference by this Court at this stage is made out and, accordingly, the writ petition is dismissed.

**(Sanjay Karol, CJ)**

**( S. Kumar, J)**

ranjan/-

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