

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11068 of 2022

M/s. Rampukar Prasad through its partner Rampukar Prasad aged about 53 years, Male, son of Jagarnath Prasad, Resident of Village Balra, P.O.- Hasanpur Mathia, P.S.- Sindwalia, District- Gopalganj, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Secretary, Department of Education, Government of Bihar, Patna.
3. The Bihar State Educational Infrastructure Development Corporation Ltd., (A Govt. of Bihar Undertaking), Shiksha Bhawan, Bihar Rastra Bhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna- 800004 through its Managing Director.
4. The Managing Director, Bihar State Educational Infrastructure Development Corporation Ltd., Shiksha Bhawan, Bihar Rastra Bhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna 800004.
5. The Chief Engineer, Bihar State Educational Infrastructure Development Corporation Ltd., Shiksha Bhawan, Bihar Rastra Bhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna 800004.
6. The Chief Consultant (Technical), Bihar State Educational Infrastructure Development Corporation Ltd., Shiksha Bhawan, Bihar Rastra Bhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna 800004.
7. The Superintending Engineer-cum-Registering Authority, Bihar State Educational Infrastructure Development Corporation Ltd., Shiksha Bhawan, Bihar Rastra Bhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna 800004.
8. The Executive Engineer (Head Quarters), Bihar State Educational Infrastructure Development Corporation Ltd., Shiksha Bhawan, Bihar Rastra Bhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna 800004.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Prabhat Ranjan, Advocate
For the Respondent/s : Mrs. Binita Singh (SC28)

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



(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 16-09-2022

Petitioner has prayed for the following relief(s):

“(i) Quashing of the Notice to Show Cause contained in Letter No. 4388 dated 09.06.2022 issued by the Chief Engineer (Respondent No. 5) whereby the petitioner has been asked to submit explanation within a period of 3 days as to why, for the allegation of use of Brick in place of Concrete in Construction of Pedestal footing, contrary to approved drawing, the action of rescinding the Agreement at the Risk and Cost of the Contractor and forfeiture of Security Deposit followed by Blacklisting in terms of Resolution in the 41st Meeting of the Board of Directors of the Corporation be not taken;

(ii) Quashing of the consequential Office Order No. 107 dated 27.06.2022 by which the Managing Director (Respondent No. 4) without considering the Show Cause Reply and relying upon fresh materials not supplied to the petitioner has decided and ordered for Rescinding of the Agreement no. 239F2 of 2021-22 at the Risk and Cost of the petitioner followed by forfeiture of the performance security and blacklisting for a period of 10 years in terms of the Resolution taken by the Board of Directors in its 41st Meeting has been taken;



(iii) Issuance of a declaration to the effect that the decision taken by the Board of Directors of the Corporation in its 41st Meeting as notified vide office Order No. 49 dated 11.04.2022 (Annexure 7) would not be applicable and would not have retrospective operation over the Agreement executed prior thereof; and

(iv) Restraining the Respondents from giving effect to the Office Order No. 107 dated 27.06.2022 issued by the Managing Director of the Corporation (Respondent No. 4) during the pendency of the present writ application.”

We do not find the impugned show cause notice dated 09.06.2022, as contained in Letter No. 4388 and the consequential office order No. 107 dated 27.06.2022, passed by respondent No. 5 and 4, namely The Chief Engineer and Managing Director, Bihar State Educational Infrastructure Development Corporation Limited respectively to have been passed in compliance with the principles of natural justice. Passing of the order entails civil consequences, inasmuch as the petitioner stands blacklisted/debarred for a period of ten years from the date of passing of the order. Also, we find the order to have been passed not in compliance with the directions issued by this Court vide order dated 20.02.2018 passed in CWJC No.



16989 of 2017, titled as Raman Kumar Singh Vs. Bihar State Food and Civil Supplies Corporation Ltd., Bihar Patna & Ors. , wherein also the earlier order passed by the respondent blacklisting/debarring the petitioner for an indefinite period stood quashed.

Vide current impugned order, the respondents have not assigned any reason, much less plausible, for having blacklisted/debarred the petitioner for a period of ten years. The principle of proportionality has not been considered. Also, while passing the impugned order, respondents have merely substituted the earlier order by reducing the period i.e. blacklisting from an indefinite period to 10 years. The effect of debarment entails both civil and penal consequences.

As such, on this short ground alone, the impugned show cause notice dated 09.06.2022, as contained in Letter No. 4388 and the consequential office order No. 107 dated 27.06.2022, passed by respondent No. 5 and 4, namely The Chief Engineer and Managing Director, Bihar State Educational Infrastructure Development Corporation Limited respectively are quashed and set aside.

At this stage, Shri Prabhat Ranjan, learned counsel for the petitioner, states that petitioner has already suffered a lot,



inasmuch as he could not participate in any of the tenders invited by any one of the statutory authorities/instrumentality of the State in the interregnum.

The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/DKS

AFR/NAFR	
CAV DATE	
Uploading Date	20.09.2022
Transmission Date	

