

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18320 of 2021

Arvind Kumar Son of Sri Prithvi Nath Sharma Resident of Circuit House
Road, Pakri Arrah, P.O. - P.S. - Nawada, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Engineer in Chief, Rural Works Department, Government of Bihar, Patna.
4. The Chief Engineer - II, Rural Works Department, Government of Bihar, Patna.
5. The Executive Engineer, rural Works Department, work Division, Araria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ashish Giri, Advocate Mr. Sumit Kumar Jha, Advocate
For the Respondent/s	:	Mr. Kameshwar Pd. Gupta, GP-17 Mr. Kameshwar Prasad Gupta, GP-10 Mr. Deepanjali Gupta, AC to GP-10

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

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 : 18-11-2022

Heard learned counsel for the parties.

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



- i) To issue a writ/ order/ direction in the nature of certiorari for quashing the letter no. 3143 dated 09.08.2021 issued under the signature of the Engineer –in- Chief, Rural Works Department, Government of Bihar, Patna by which the contractors including the petitioner has been declared defaulter and debarred from participating in the next tenders for non-completion of the work within time as prescribed in the agreement and thereafter directing the respondent to remove the name of the petitioner from the debar list. (Annexure-4, Pg.22).
- ii) To hold and declare that in the fact and circumstances of the case the impugned decision declaring the petitioner as defaulter and debarring him is wholly unwarranted and in gross violation of rule of natural justice.
- iii) To pass interim / ex-parte interim order staying the operation of letter no. 3143 dated 09.08.2021 issued under the signature of the Engineer –in- Chief, Rural Works Department, Government of Bihar, Patna and/or permit the petitioner to participate in other tenders.
- iv) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.

We do not find the impugned order dated 09.08.2021, issued under the signature of the Engineer-in-Chief,



Rural Works Department, Government of Bihar, Patna (Annexure-4, Page-23) 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 from taking part in future tenders 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 from taking part in future tenders. The principle of proportionality has not been considered. The effect of debarment entails both civil and penal consequences.

As such, on this short ground alone, the impugned order dated 09.08.2021, issued under the signature of the Engineer-in-Chief, Rural Works Department, Government of



Bihar, Patna (Annexure-4, Page-23) is quashed and set aside.

At this stage, Shri Ashish Giri, learned counsel 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.

The instant petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	21.11.2022
Transmission Date	

