

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.658 of 2021

In
Civil Writ Jurisdiction Case No.16766 of 2019

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Arun Kumar Son of Late Siya Ram Singh Resident of Village and P.O. Bandeya, P.S. Bandeya Rukandi, District- Aurangabad- at present residing at Sharma Bhawan, Rajiv Nagar Road No. 8, P.S.- Rajiv Nagar, Town and District- Patna.

... .. Appellant/s

Versus

1. Bihar State Building Construction Corporation Ltd. a Government of Bihar Undertaking having its Registered Office at Patna- 800001 (Bihar)- through its Managing Director.
2. Managing Director, Bihar State Building Construction Corporation Ltd., a Government of Bihar Undertaking, Patna- 800001 (Bihar).
3. Chief General Manager, Bihar State Building Construction Corporation Ltd., a Government of Bihar Undertaking, Patna- 800001 (Bihar).
4. General Manager, Bihar State Building Construction Corporation Ltd., a Government of Bihar Undertaking, Patna- 800001 (Bihar).
5. Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Building Construction Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. P.K. Shahi, Sr. Adv Mr.Anshuman Singh, Adv
For the Respondent/s	:	Mr.S.D. Yadav (AAG9)
For BSBCC	:	Mr. Tej Bahadur Singh, Sr. Adv

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(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.)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 02-02-2022

Heard learned counsel for the appellant as well as learned counsel for the respondents.

This LPA under Clause 10 of Letters Patent Appeal has been preferred for setting aside the judgment and order dated 25.03.2021 passed in C.W.J.C. 16766 of 2019 passed by learned Single Judge of this Hon'ble Court whereby writ petition has been dismissed.

Briefly stated the facts of the case is that in pursuance of NIT e.tender no. 96/2018-19 for construction of Civil Court building at Paliganj valued at Rs. 21,14,51,242/- and construction of Gymnasium valued at Rs. 8,25,06,457/- petitioner submitted his tender along with relevant documents and also deposited earnest money of Rs. 31,20,000/- and Rs. 16,50,000/- in the shape of fixed deposit in terms and conditions of *E. Tender*.

A show cause notice dated 28.12.2018 was issued by the General Manager (South) to which petitioner submitted his reply but the same was not accepted and by letter dated 12.01.2019, the Managing Director of the Corporation wrote a letter to the Engineer-in-Chief cum Additional Commissioner

cum Special Secretary, Building Construction Department, Govt. of Bihar to blacklist petitioner in accordance with Bihar Contractors Registration Rules-2007 and thereafter a fresh show cause notice was issued to the petitioner under Bihar Contractors Registration Rules-2007 with respect to blacklisting against which he filed a detailed reply. On consideration the competent authority by order dated 24/26 July, 2019, blacklisted petitioner for five years.

The learned Single Judge has held that in terms of *E.Tender*, Contractor should be registered under the Bihar Contractors Registration Rules-2007 with the Building Construction Department/Road Construction Department and only such Contractors were eligible to participate in *E. Tender*. It was further observed that the petitioner cannot be absolved from the liability of being prosecuted by the Building Construction Department, if petitioner commits any misconduct, as enumerated in the Bihar Contractors Registration Rules-2007.

The learned Single Judge has further held that petitioner participated in the Bid and submitted forged documents of experience issued by National Building Construction Corporation. The department on enquiry found

that the petitioner participated in the bid and in order to get the contract submitted forged experience certificate. Said experience certificate was sent to National Building Construction Corporation for verification, which informed it to be forged and fabricated and when petitioner knew about it he withdrew his bid papers. Show cause notice was issued to petitioner under Bihar Contractors Registration Rules-2007 to which petitioner submitted his reply and thereafter he was blacklisted for five years.

Having heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Corporation, this Court does not find any error or infirmity in the judgment and order passed by learned Single Judge requiring any interference by this Court in this Letters Patent Appeal. Accordingly, the LPA is dismissed, however, the order of blacklisting is of five years, which appears to be excessive, as such, the matter is remanded on the issue of period of blacklisting to the Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Building Construction Department, Government of Bihar, Patna, who shall pass a fresh order after affording due opportunity to petitioner with respect to period of blacklisting within three

months from the date of receipt/production of a copy of the
order passed by this Court.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.02.2022
Transmission Date	NA