

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 5234 of 2022

<i>Sanjaya Kumar Binayak</i>		<i>Petitioner</i>
		<i>Mr. U.K. Samal, Advocate</i>
	Vs.	
<i>State of Odisha & Ors.</i>		<i>Opposite party</i>
		<i>State Counsel</i>

CORAM:

**DR. JUSTICE B.R. SARANGI
MISS JUSTICE SAVITRI RATHO**

**ORDER
23.03.2022**

Order No.

2

This matter is taken up through hybrid mode.

2. Heard Mr. U.K.Samal, learned counsel for the petitioner and Mr. T.K. Pattnaik, learned Additional Government Advocate.

3. The petitioner has filed this writ petition to quash the proceeding of tender committee meeting held on 18.01.2022 under Annexure-4, letter dated 02.02.2022 for blocking of portal registration under Annexure-8, letter dated 08.02.2022 blocking his user ID in the website under Annexure-9 and the letter dated 02.12.2022 recommending his name for blacklisting under Annexure-7.

4. Mr. U.K.Samal, learned counsel for the petitioner contended that pursuant to Notice Inviting Tender (NIT) for MMSY Road works in Odisha by National competitive bidding through e-procurement, which was made in respect of different works under Rural Works Circle, Angul, the petitioner submitted his technical bid and financial bid in

respect of the works “Improvement to Dehury Chhak PWD Road to Gangijodi village via Kaliahata Kantapal Road” (Sl. No.19) and for “Sogar to Baruan Road” (Sl. No.20). After opening of the technical bid, the petitioner was found qualified and after opening of the financial bid, he was found as L-1 in respect of the work “Improvement to Dehury Chhak PWD Road to Gangijodi village via Kaliahata Kantapal Road”. The Executive Engineer, Rural Works Division vide his letter dated 24.12.2021 directed the petitioner to deposit Additional Performance Security. But on receipt of complaint from an outsider regarding submission of forged experience certificate by the petitioner, the Executive Engineer did not receive his Additional Performance Security and other required documents. The tender committee decided for cancellation of the tender notice and for re-tender, as the experience certificate submitted by the petitioner was not genuine, and the committee also opined to serve show-cause notice on him. Accordingly, the Chief Construction Engineer, Rural Works Circle, Angul issued show cause notice to the petitioner, that Executive Engineer, MI Division, Dhenkanal vide letter dated 03.01.2022 intimated that the experience certificate uploaded by the petitioner was not genuine, and he was requested vide letter dated 18.01.2022 under Annexure-5 to file show-cause within 15 days why action deemed proper should not be initiated against him as per Clause-10.3.4 of DTCN. In compliance thereof, the petitioner filed reply vide Annexure-6 dated 31.01.2022. It is contended that without considering the same in proper perspective, the Chief

Construction Engineer, Rural Works Circle, Angul, vide letter dated 02.02.2022, requested the Chief Engineer (Plan Roads), Rural Works, Odisha, Bhubaneswar to take appropriate action against the petitioner as per OPWD Code Volume-II Appendix-XXXIV of A(f) for blacklisting the agency. Thereafter, the Chief Construction Engineer, Rural Works Circle, Angul, vide letter dated 02.02.2022, issued instruction to block the portal registration of the petitioner for uploading of the forged experience certificate as per the guidelines, i.e. Clause-23.3.4 of OPWD Code Volume-II. After that, vide Annexure-9 dated 08.02.2022, the petitioner was intimated that his portal in the website has been blocked with a stipulation that in case of any clarifications & feedback please refer “contact us” menu in website.

5. Mr. T.K. Pattnaik, learned Additional Government Advocate contended that even though it was decided to blacklist the petitioner, but till now no step has been taken in that regard. More so, the petitioner has been given liberty to contact the authorities, but till date he has not done so. Thereby, the writ petition is premature.

6. Having heard learned counsel for the parties and after going through the records, it appears that for blacklisting of a contractor, a procedure has to follow, but the same has not been taken till now. So far as blockage of portal is concerned, procedure has been envisaged how to approach the authority for unblock the portal and as such, the letter under Annexure-9 dated 08.02.2022 indicates that the petitioner has been instructed to refer “Contact Us” menu in website in case of any clarifications and feedback. No pleading has been made

in the writ petition with regard to follow up action of the petitioner. Mr. U.K. Samal, learned counsel for the petitioner urged that the petitioner had contacted orally. But nothing has been placed on record to that extent. Since there is no blacklisting order against the petitioner and as such, liberty has been given to the petitioner to refer “Contact Us” menu in website in case of any clarifications and feedback, without compliance of the same approaching the Court by filing this writ petition is misconceived one. Therefore, the writ petition is premature and accordingly, the same is dismissed.

.....
(**DR. B.R. SARANGI**)
JUDGE

.....
(**SAVITRI RATHO**)
JUDGE



