

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11249 of 2017

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Harendra Kumar Thakur S/o Late Kedar Nath Thakur, R/o Village P.O.P.S.-
Baheri, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar through Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary, Rural Works Department, Govt. of Bihar,
Vishweshwaraiya Bhawan, Patna- 800001
3. The Engineer-in-Chief cum Addl. Commissioner cum Special Secretary,
Rural Works Department, Govt. of Bihar, Patna, Vishweshwaraiya, Patna -
800001
4. The Chief Engineer, Rural Works Department, Govt. of Bihar,
Vishweshwaraiya Bhawan, Patna- 800001.
5. The Superintending Engineer, Rural Works Department, Govt. of Bihar,
Work Circle, Samastipur.
6. The Executive Engineer, Rural Works Department, Govt. of Bihar, Work
Division, Rosraat Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Devesh Shankaran, Advocate
For the State : Mr. Pratik Kumar Sinha, AC to GA 5

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 26-04-2023

Heard learned counsels for the respective parties.

2. In the instant petition, petitioner has prayed for the
following relief/reliefs:

“I. For quashing the order dated
30.01.2017 passed by respondent no. 4 namely
Chief Engineer, Rural Works Department, Patna,



Government of Bihar issued vide memo No. 1074 dated 31.01.2017 by which the petitioner was put into Blacklisted category of the Contractor for 10 years in complete violation of the Bihar Contractor Registration Rule, 2007 as well as in complete violation of Natural Justice and based on a non-speaking order.

II For directing the respondent authorities to pass order a fresh following the principles of Natural Justice, after providing opportunity of hearing and discussing all the points raised in his reply and also according to the rules laid down in Bihar Contractor Registration Rule, 2007.

III. For granting any other relief or reliefs for which the petitioner is entitled for any view of the matter for the reliefs prayed herein before.”

3. Perusal of the show cause notice for blacklisting, there is only proposal for blacklisting petitioner whereas blacklisting him is for a period of 10 years. Hon’ble Apex Court in the case of *UMC Technologies Pvt. Ltd. vs. Food Corporation of India and Another*, reported in (2021) 2 SCC 551 read with *Isolators and Isolators through its proprietor Mrs. Sandhya Mishra V. Madhya Pradesh Madhya Kshetra Vidyut Vitran Co. Ltd. and another*, 2023 LiveLaw (SC) 330 (Para 34) held that show cause notice must be specific insofar as number of years of



blacklisting. On this short point, learned counsel for the petitioner has made out a case so as to interfere with the impugned order dated 31.01.2017 (Annexure - P7) and it is set aside reserving liberty to the concerned respondent to proceed with fresh notice with specific material information read with the proposal for blacklisting for 10 years and on receipt of petitioner's explanation, proceed to pass speaking order after due consideration of each of the contention to be raised by the petitioner.

4. The above exercise shall be completed within a period of three months from the date of receipt of this order.

5. The concerned authority is hereby directed to take note of principles laid down by the Apex Court in various decisions which has been summed-up in the following points:

“(i) The order of blacklisting involving civil consequences cast slur. Such an action can be taken only on the basis of objectives, satisfaction of the authority concerned. The fundamental of fair play required that the person concerned should be given an opportunity to present his case before he is put on blacklisting.

(ii) The order of blacklisting must specifically spell out the intention of blacklisting.



(iii) The order of blacklisting must be speaking order supported with reasons.

(iv) Blacklisting cannot be for an indefinite period and the period of blacklisting should be fixed based on doctrine of proportionality of the case.”

6. In terms of the aforesaid order, the writ petition stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.05.2023
Transmission Date	NA

