

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3961 of 2017

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Jai Maa Saraswati Construction Pvt. Ltd. Shop No. 119/A, First Floor
Maharaja Kamashwer Complex, Patna, through its Managing Director Sri
Gautam Kumar, Mohalla-Pirmuhani, Chauthigali, P.S.-Gandhi Maidan, Patna.

... .. Petitioner/s

Versus

1. The Union Of India through Chairman Railway Board, New Delhi.
2. General Manager East Central Railway, Hazipur, Patna.
3. Divisional Rail Manager, Danapur, Patna.
4. Senior Divisional Manager 3 East Central Railway, Danapur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Mohan Mishra
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

3 18-04-2023 Matter called twice. None appears on behalf of the

respondents.

02. In the instant petition, petitioner has prayed for the

following relief(s):-

*“(i) To quash the order of termination
dated 19.09.2016 in contract agreement number
7/39/Misc/DNR/ open/11-12 dated 09.02.2012
and also for the direction to pay the security or
earnest money of Rs. 4,00,000/- as well as
performance guarantee and value of work done
but not measured and paid.*

*(ii) To quash and set aside the part of
enquiry report submitted by the committee in its
report dated 28.01.2016 whereby and where
under the petitioner has been made responsible*



Respondent-Senior Divisional Engineer, E.C. Railway, Danapur, has not provided an opportunity of hearing to the petitioner. On this short ground, the petitioner has made out a *prima facie* case.

05. The principle laid down by various judicial pronouncements are as under:-

(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 requires that the person concerned should be given an opportunity to present his case before he is put on blacklisting.

(ii) The notice 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.

The concerned authority may take note of the aforementioned principles.



06. Accordingly, Annexure-1 dated 19.09.2016 stands set aside.

07. The writ petition stands allowed, reserving liberty to the concerned-Respondent to proceed with the matter in accordance with law and within a period of three months from the date of receipt of this order.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Ashish/Daya/-

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