

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.1320 of 2023**

M/S Brijendra Kumar Singh through its Partner Ram Jee Singh, Male, aged about 59 years, Son of Late Shilwant Singh, Resident of Village New Area, P.S. Dehri, District Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Engineer in Chief, Rural Works Department, Government of Bihar, Patna.
3. The Chief Engineer-I, Rural Works Department, Government of Bihar, Patna.
4. The Executive Engineer, Rural Works Department, Regional Laboratory, Sasaram, District Sasaram, Bihar.
5. The Executive Engineer, Rural Works Department, Works Division, Mohania, District Sasaram.

... .. Respondent/s

**Appearance :**

|                      |   |                                                           |
|----------------------|---|-----------------------------------------------------------|
| For the Petitioner/s | : | Mr.Prabhat Ranjan, Advocate<br>Mr.Chandan Kumar, Advocate |
| For the Respondent/s | : | Mr.Virendra Kumar, AC to GP10<br>Mr.K.P.Gupta, GP10       |

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

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

**Date : 15-03-2023**

In the instant petition, petitioner has prayed for the following reliefs:-

*“(i) Quashing of the ex-parte inspection report dated 17.12.2022 (Annexure I) submitted by the Chief Engineer-I, Rural Works Department, which has been conducted contrary to the express requirement of the Standard Bidding Document and other statutory *sina qua non*;*



*(ii) Quashing of the consequential Notice to Show Cause contained in Letter No. 3101 dated 30.12.2022 (Annecure 2) whereby, on the basis of the exparte inspection report dated 17.12.2022, the proceedings for blacklisting and rescinding has been initiated and the petitioner has been asked to Show Cause as to why for the allegation of corrupt practices under Clause 11 (क) (ii) of the Bihar Contractors Registration Rules, 2007, the agreement be not rescinded and the firm be not blacklisted for a period of 10 years;*

*(iii) Quashing of the final order dated 16.01.2023 contained in Memo No. 303 (Annexure 4) whereby the Engineer in Chief, without considering the reply to the Show Cause Notice, contrary to the decision of the State Government and contrary to the terms of agreement and the high judicial authorities, in extreme violation of the principles of natural justice, has blacklisted the registration of the petitioner for a period of five years with immediate effect in terms of Clause 11 (a) (vi) of the Bihar Contractors Registration Rules, 2007; and*

*(iv) Restraining the Respondents from taking any coercive action and/or stay the operation of the Blacklisting order dated 16.01.2023 as contained in Memo NO. 303 issued by the Engineer in Chief, Rural Works Department, during the pendency of the present writ application and/or without the leave of this Hon'ble Court."*

2. The petitioner is a contractor who was successful bidder in respect of particular contract and contract is in vogue till September 2023. In the case of ongoing work contract, if any,



inspection is conducted by the official respondents, in such circumstances it is necessary to have a joint inspection so as to point out any defects in the work to the contractor on the spot itself or by furnishing a report, whereas, in the present case behind the back of the petitioner inspection was conducted, in other words it is *ex-parte* inspection report. Even after drawing proceedings in respect of *ex-parte* inspection report, copy of the same is not made available to the petitioner. However, thereafter show-cause notice is stated to have been issued and the same has been considered and proceeded to pass impugned order.

3. *Prima facie*, the petitioner has made out a case that in his absence inspection was conducted and report has been drawn and copy of the report was not made available to him.

4. Apex Court time and again held that any adverse order passed behind the back of the aggrieved person, it is in violation of Article 14 of the Constitution. One of the latest decision is in the case of *Esteem Properties (P) Ltd. vs. Chetan Kamble* reported in (2022) 11 SCC 661.

5. In the light of these facts and circumstances the petitioner has made out a *prima facie* case so as to interfere with the impugned action of the respondent. Accordingly, notice dated



30.12.2022 and order dated 16.01.2023 *vide* Annexure-2 and Annexure-4 are set aside.

6. The concerned respondent is hereby directed to provide ample opportunity of hearing and so also furnishing relevant documents. In the event of petitioner disputing findings of the inspecting team or officers read with the inspection report in that event the respondents are permitted to undertake afresh joint inspection and thereafter to proceed in accordance with law. However, earlier joint inspection would not come in the way of fresh joint inspection, if any. With the above observation the present petition stands allowed in part.

7. At this stage, learned counsel for petitioner submitted that in the event of any defects in notice issued by the official respondents in that event it could be rectified in the light of Para 32 of standard bidding document for Pradhan Mantri Gram Sadak Yojna. The concerned authority is hereby directed to take note of the relevant conditions stipulated in the Pradhan Mantri Gram Sadak Yojna standard bidding document before taking further action in the matter.

8. The impugned action would not come in the way of entertaining the petitioner's tender bid for other tenders, if any. In other words, impugned action in the present petition would not be



a hurdle to entertain petitioner’s tender applications in the any other contract, subject to fulfilling relevant criteria.

**(P. B. Bajanthri, J)**

**( Arun Kumar Jha, J)**

abhishekk/-

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| AFR/NAFR          | NAFR       |
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