

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3280 of 2023

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Parmar Enterprises through its Partner Kripakant Singh, aged about- 51 years, Male, son of Ramashish Singh, resident of Ward No. 12, near Mother Teresa School, Chinvaniya, Motihari, P.S. Paharpur, District East Champaran, Bihar.

... .. 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-4-cum- Nodel Officer, Rural Works Department, Government of Bihar, Patna.
4. The Chief Engineer- 3, Rural Works Department, Government of Bihar, Patna.
5. The Superintending Engineer, Rural Works Department, Works Circle, Motihari, District- Motihari, Bihar.
6. The Executive Engineer, Rural Works Department, Works Division, Areraj, District East Champaran, Bihar.
7. Shankar Sharan Mishra, son of not known to the petitioner, resident of Village Slaha, Post Slaha, Via Govindganj, District Motihari, Bihar 845411.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan, Advocate
		Mr. Chandan Kumar, Advocate
For the Respondent/s	:	Mr. Ajay, 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 : 21-03-2023

Heard learned counsels for the respective parties.

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

“i. Quashing of the order dated 07.07.2021 as contained in letter No. 1966 to the extent it relates to



the petitioner by which come without issuing a notice to the show cause, and contrary to the terms of the agreement without any authority of law and without any jurisdiction the petitioner has debarred from participating in the future contract for an ad infinite period.

ii. Quashing of the consequential order dated 11.01.2023 passed by the Engineer-in-Chief (Respondent No. 2) as communicated by letter No. 194 dated 11.01.2023 whereby, the appeal/representation filed on behalf of the petitioner pursuant to the matter being remanded under the order of this Hon'ble Court has been rejected and the earlier order debarring/black listing the petitioner has not been interfered with and thus, stands confirmed; and

iii. Restraining the respondent from giving effect to the order of debarment as a disqualification from participating in the future tenders during the pendency of the present writ petition and/or without the leave of this Hon'ble Court."

3. This is the second round of litigation by the petitioner. Earlier this Court passed a detailed order and remanded the matter for fresh consideration. The petitioner is stated to have been provided oral opportunity as well as written opportunity. In the written submission at Annexure – 2 dated 08.09.2022, the petitioner has specifically taken the contention that he is forwarding a chart of maintenance work and its payment and it is with reference to record. Without there being a reference or a discussion whether such chart and payments made thereon are true



facts or not has not been analyzed and discussed in the impugned communication dated 11.01.2023.

4. Despite repeated judicial orders being passed in number of cases, the authorities have failed to take note of how to consider any matter with reference to opportunity to be provided to aggrieved persons. This Court has come across in umpteen number of cases that the authorities are repeatedly committing the same error which results in multiple litigations. In fact, it is to be noted that State is one of the biggest litigants before judicial forum. In this regard, the Chief Secretary of the State of Bihar is hereby directed to take note of that the authorities are committing same error in not providing opportunity and in not considering each of the contentions raised against show cause notice. In other words, State respondents are of the view that it is only an empty formality of issuing show cause notice and obtaining reply and they proceed to pass order ignoring the material information filed against the show cause notice.

5. Accordingly, writ petition stands allowed with a Cost of Rs. 10,000/- (Rupees Ten Thousand). Cost shall be remitted in the Patna High Court Legal Services Committee within a period of four weeks from today.



6. Reserving liberty to the concerned authority to pass afresh order after due consideration of each of the contention stated by the petitioner in his reply at Annexure – 2 in particularly chart of maintenance work and its payment so as to analyze whether is there any deficiency in maintenance of work on behalf of petitioner or not? To that extent, speaking order shall be passed and communicated to the petitioner within a period of three months from today.

7. At this juncture, learned counsel for the petitioner submitted that the detailed show cause notice has not been made available. In such an event, concerned authority is hereby directed to prepare a detailed show cause notice with material information within a period of one month from the date of receipt of this order. Thereafter, petitioner is permitted to file his say on the detailed show cause notice along with material produced to him within a period of one month from the date of receipt of such show cause notice and conclude the proceedings within three months.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.03.2023
Transmission Date	NA

