

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5760 of 2023

=====

Ram Sovit Yadav Son of Nirsu Yadav, Resident of Village- Baggha, P.O.-
Jalwara, P.S.- Kamtaul, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Rural Works Department Government of Bihar, Patna.
2. The Secretary Rural Works Department Bihar Patna.
3. The Engineer in Chief, Rural Work Department, Bihar, Patna.
4. The Chief Engineer Rural Works Department, Bihar, Patna.
5. The Superintending Engineer, Rural Works Department, Work Anchal, Darbhanga.
6. The Executive Engineer, Rural Works Department Work Division, Benipatti, Madhubani.
7. The Assistant Engineer, Rural Works Department, Work Division, Benipatti, Madhubani.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. D. K. Sinha, Sr. Advocate on behalf of Mr. G.C. Jha, Advocate Mr. Ashish, Advocate
For the Respondent/s	:	Mr. Ajay (GA-5) Mr. Pratik Kumar Sinha, AC to GA-5

=====

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

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

4 12-05-2023 In the instant writ petition, petitioner has prayed for
the following relief(s):-

*“1. That the present writ application
has been filed for issuance of appropriate
writ/writs for setting aside the order dated
29.03.2022 vide memo no. 597 issued by
respondent no. 3 whereby and where under*



the agreement vide no. 100 MBD/2019-2020 was cancelled and also setting aside the order dated 12.12.2022 vide memo no. 2767 issued by respondent no. 3 by which the petitioner was black listed for 15 years and issuance of appropriate writ or writs to reinstate the registration no. 1170117 to its. Original place as the petitioner is ready to complete the work allotted to him and or issuance of any other writ/writs under the facts and circumstances of the case.”

02. The grievance of the petitioner is against the impugned action of the respondents insofar as cancellation of contract and blacklisting him for a period of 15 years. The petitioner has already invoked remedy of appeal before the appellate authority, insofar as cancellation of contract is concerned. In that regard, the appellate authority is hereby directed to decide the petitioner's appeal within a period of three months from the date of receipt of this order.

03. Insofar as blacklisting order is concerned, the concerned authority has merely completed the formalities like issuance of show-cause notice and obtaining reply to the show-cause notice and proceeded to pass order. In other words, it is not a speaking order. Rightly or wrongly petitioner has taken a



contention that due to flood in that particular period, he could not execute the work. In that regard, the concerned authority should have examined as to whether was there any flood during the relevant period of time and the allotted work had been hampered or not? In the absence of examination of these material information and apprising of the blacklisting order, we find that there is non-application of mind.

04. Further, we have to take note of the fact that the concerned authority has only completed empty formalities of issuance of show-cause notice, obtaining reply to the show-cause notice and passing a non-speaking order. In other words, completion of formalities is only an empty-formality, the same has been deprecated by the Apex Court in case of **ORYX Fisheries (P) Ltd. Vs. Union of India and Ors.**, reported in **(2010) 13 SCC 427**, at Paragraph No. 40, it is held as under:

“40. In Kranti Associates [(2010) 9 SCC 496 : (2010) 3 SCC (Civ) 852] this Court after considering various judgments formulated certain principles in SCC para 47 of the judgment which are set out below : (SCC pp. 510-12)

“(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record



reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.



(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor(1987) 100 Harv. L. Rev. 731-37.)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] , EHRR at p. 562, para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 : 2001 ICR 847 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, 'adequate and intelligent reasons must be given for judicial decisions'.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence



and is virtually a part of 'due process'."

05. Undisputedly, the blacklisting order has been issued by exercising quasi-judicial function. In such matters of formalities were require to be followed, in fact, specific notice shall be issued to the effected person.

06. Taking note of all these material information, the petitioner has made out a case so as to interfere with the blacklisting order. Accordingly, the blacklisting order vide Memo No. 597 dated 29.03.2022 (Annexure-2) is set aside, reserving liberty to the concerned authority to proceed in accordance with law after taking note of judicial pronouncements like the principles laid down by the Apex Court in the case of ***UMC Technologies Pvt. Ltd. vs. Food Corporation of India and Anr.***, reported in ***(2021) 2 SCC 551***, and later decisions in the case of ***Isolators and Isolators Through Its Proprietor Mrs. Sandhya Mishra vs. Madhya Pradesh Madhya Kshetra Vidyut Vitran Co. Ltd. and Anr.***, reported in ***2023 LiveLaw (SC) 330 (Para-34)*** along with ***M/S Chauhan Builders Raibareli Vs. The State of Uttar Pradesh and Ors.*** reported in ***2022 Livelaw (SC) 694***.

07. The concerned authority is permitted to take further action after following due process of law within a period



of three months from the date of receipt of this order.

08. Accordingly, the writ petition stands allowed in-
part.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Ashish/-
Himanshu/-

U			
---	--	--	--

