

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5200 of 2023

Manoj Kumar Yadav, Son of Hari Narayan Yadav, Resident of Village and
P.O.- Akbarpur Bank, P.S.- Biraul, District- Darbhanga (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Rural Works Department, Bihar, Patna.
2. The Engineer-In-Chief, Rural Works Department, Bihar, Patna.
3. The Chief Engineer-4-cum-Senior In-charge, Rural Works Department, Bihar, Patna.
4. The Secretary-Cum-President, Empowered Standing Committee, Rural Works Department, Bihar, Patna.
5. The Nodal Officer, PMGSY, Rural Works Department, Bihar, Patna.
6. The Chief Executive, Sail Bitumen India Pvt. Ltd., Patna.
7. The Assistant Engineer, Rural Works Department, Work Upper Circle, Amdabad, Manihari, Katihar, Bihar.
8. The Superintending Engineer, Rural Works Department, Work Division, Purnia.
9. The Executive Engineer, Rural Works Department, Work Division, Manihari.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Durgesh Kumar Singh, Advocate
For the Respondent/s : Mr. Ajay (GA5)

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

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

2 13-04-2023 In the instant petition, petitioner has prayed for the
following relief(s):-

*“(i) For setting aside the Memo No. 229 dated
23.02.2023, passed by the Executive Engineer,
Rural Works Department, Work Division,
Manihari, whereby recommendation was made to
the Superintending Engineer, Rural Works
Department, Work Division, Purnia, for*



blacklisting the petitioner in PMGSY Scheme bearing Package No. BR- 16R- 336, LO44-Talhari Block Sahebganj To Maharajpur Railway Station Road To Gadaimaharajpur (VR 44), Registration No, 2170511 in gross violation of the principle of natural justice as well as in gross violation of the observation of the Hon'ble Supreme Court of India in a judgment reported in 2010 (6) SCC 561 Kranti Associates Vs. Union of India which was also followed by the Hon'ble Supreme Court in the year 2019 reported in (2019) 15 SCCI "Nareshbhai Bhagubhai Vs. Union of India".

(ii). For issuance of appropriate order / direction not to blacklist the petitioner and.

(iii). For any other relief for which the petitioner may be deemed entitled to."

2. Perusal of the relief sought in the present petition is that petitioner has assailed the order of recommendation to blacklist him, therefore, the present petition is pre-mature.

3. Courts have time and again held that against issuance of show cause notice, writ is not maintainable unless and until such notices are in violation of any rule or statute or issued by an incompetent authority. Both the ingredients have not been indicated in the present writ petition.

4. Accordingly, the writ petition stands dismissed as being pre-mature reserving liberty to the petitioner to furnish his detailed explanation as and when show cause notice is issued by the competent authority in proposing blacklisting.

5. At this stage, we notice that recommendation order dated 23.02.2023 consisting of two parts, namely, cancellation



of contract against which petitioner has remedy of appeal and it is learnt that he has exhausted and suffered an order and it is not the subject matter of the present writ petition insofar as challenging the appellate authority order. Therefore, the present writ petition is restricted to only the issue of blacklisting insofar as proposed blacklisting is concerned, the present writ petition is pre-mature. Reserving liberty to the petitioner to assail the order of appellate authority insofar as cancellation of contract.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

DKS/
Balmukund/-

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