

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5835 of 2023

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Datapro Computers Private Limited, a registered Company having its regional office at Flat number 11, Narmada Apartment, Behind LIC Building, Exhibition Road, Patna- 800001 through its authorised representative namely Rakesh Kumar Tiwary male aged about 35 years son of Ram Suresh Tiwary resident of Flat Number 11, Narmada Apartment, Behind Behind LIC Building, Exhibition Road, Patna- 800001

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Rural Development, Government of Bihar, Patna.
2. The Principal Secretary, Department of Rural Development, Government of Bihar, Patna.
3. The Bihar Rural Livelihood Promotion Society, having its office at first floor, Vidyut Bhawan, Bailey Road, Patna- 800021 through its Chief Executive Officer cum State Mission Director.
4. The Chief Executive Officer cum State Mission Director, Bihar Rural Livelihood Promotion Society having its office at first floor, Vidyut Bhawan, Bailey Road, Patna- 800021.
5. The Chief Operating Officer, Bihar Rural Livelihood Promotion Society having its office at first floor, Vidyut Bhawan, Bailey Road, Patna- 800021.
6. The State Program Manager- PIA Coordination and Development, Bihar Rural Livelihood Promotion Society having its office at first floor, Vidyut Bhawan, Bailey Road, Patna- 800021.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kejriwal, Advocate
	:	Mr. Alok Kr. Jha, Advocate
	:	Mr. Mukund Kumar, Advocate
	:	Ms. Ekta Rani, Advocate
For the BRLPS	:	Mr. Abhinav Srivastav, Advocate
For the State	:	Mr. Vikash Kumar, AC to AG

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

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

4 27-06-2023 Heard learned counsel for the respective parties

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



following reliefs:-

"(i) For issuance of a writ in the nature of certiorari for quashing of the letter bearing reference number BRLPS/Proj-jobs/538/14/026 dated 05.04.2023 issued by respondent number 4 whereby petitioner has been blacklisted for a period of 3 years and the agreement of the petitioner has been terminated with immediate effect and also a decision has been taken to recommend with immediate effect and also a decision has been taken to recommend to the Ministry of Rural Development for blacklisting of the petitioner with the proposal of such penal action of blacklisting and termination of agreement in terms of clause 1.6.1 of part I of the standard operating procedure prescribed by the Ministry of Rural Development, Government of India later amended vide notification number 42/2016 dated 26.08.2016 for its application to all projects under Din Dayal Upadhyay- Gramin Kaushal Yojna (DDU- GKY).

(ii) For further restraining the respondent number 4 and any other authority or officer from the respondent Department of Rural Development Government of Bihar and the respondent society from taking any coercive action against the petitioner for recovery of any amount from the petitioner in respect of agreement dated 01.03.2014, 01.03.2014 (supplementary), 05.12.2014 and 13.02.2017, executed by the respondent Bihar Rural Livelihood Promotion Society (hereinafter referred to as "the Society" for short) with the petitioner for the project of training of rural youth under placement linked skill development training program under Ajeevika Skills.

(iii) For further issuance of a writ or order or direction upon respondents es-



pecially the respondent number 4 to make available the details of the discrepancies allegedly identified in the audit (Project Financial Statement as referred in the SOP) report furnished by the petitioner in terms of clause 12 of the impugned letter bearing reference number BRLPS/Proj-jobs/538/14/026 dated 05.04.2023 and grant an opportunity to the petitioner to explain the same before proceeding to invoke the penalty clause in terms of clause SF 10.1 A (overview of default handling procedures) in the standard operating procedure amended vide notification number 42/2016 dated 26.08.2016.

(iv) For issuance of a writ or order or direction upon the respondent number 4 of the society of a writ consider and carry out the work of verification of the candidates trained and placed in employment by the petitioner under DDU GKY scheme of the central and state government as per Chapter 7 of the standard operating procedure (SOP) and notification number 08/2020 dated 09.03.2020 which has already been requested by the petitioner through various letters dated 08.08.2020, 23.03.2021, 01.12.2021, 12.01.22 and 09.03.2022 in accordance with the norms stipulated in the standard operating procedure.

(v) For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case."

3. The petitioner has assailed the order of blacklisting him for a period of three years. Even though notice has been issued to the petitioner on 16.03.2021 and 03.01.22. However, pe-



rusal of the notice, it is not specific relating to blacklisting to the petitioner for a period of three years. In other words, it is general in nature like failing to submit certain material information penal action would be taken like blacklisting and even legal proceedings against the petitioner.

4. Hon'ble Apex Court in the case of **State of Odisha & Ors. vs. Panda Infraproject Ltd.** reported in **(2022) 4 SCC 393 (Para 23)** has held that before blacklisting the firm or a person specific notice is required to be issued including number of years of proposed blacklisting. In the light of these facts and circumstances read with judicial pronouncements on short point the petitioner has made out a case so as to interfere with the impugned order of blacklisting him for a period of three years to the extent that there is no specific notice and seeking the petitioner's explanation. Accordingly, order of blacklisting dated 05.04.2023 (Annexure-25) stands set aside reserving liberty to the concerned respondent to proceed further in accordance with the judicial pronouncements to the extent that there should be specific and a detailed notice. Further, the petitioner is directed to furnish his detailed explanation to the proposed show cause notice to be issued by the respondents. Thereafter, concerned respondent is hereby directed to pass a detail speaking order after



due consideration of each of the contentions to be raised by the petitioner against the show cause notice, if any. The above exercise shall be completed within a period of three months from the date of receipt of this order.

5. With the aforesaid observations, the present petition stands disposed off.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

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