

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6094 of 2023

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M/s Kundan Kumar having its Office at- Ramdayalu Nagar, P.O.- Ramna,
District- Muzaffarpur through its authorized signatory Kundan Kumar
Mishra.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Industrial Department, 2nd Floor, Vikash Bhawan, Bailey Road, Patna.
2. Chief Secretary cum- Chairman, Infrastructure Development Authority, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna-4.
3. Director (Project Implementation), Infrastructure Development Authority, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna-4.
4. Executive Engineer (PDA), Infrastructure Development Authority, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna-4.
5. Executive Engineer (Technical), Infrastructure Development Authority, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna-4.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anurag Saurav, Advocate
For the Respondent/s : Mr.Vikash Kumar (Sc 11)

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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)

5 14-07-2023 In the instant petition, petitioner has prayed for the

following relief(s):-

*“(i) For quashing of
the Letter bearing Letter No.
1748/PDA dated: 11.03.2023
issued by Respondent No. 5 i.e.
Executive Engineer (PDA)
Infrastructure Development
Authority, Patna, whereby and
where under Respondent No. 5
had without issuing show cause
notice and without providing any
opportunity of hearing to the*



petitioner, debarred the petitioner from participating in future tender till the completion of work and also imposed penalty of Rs. 10 lakhs and the said order has been passed in complete violation of principle of natural justice.

(ii) For issuance of writ in the nature of mandamus directing the respondent to release the pending due amount of the petitioner for smooth functioning of the project, as the petitioner has completed 60% of the work and in lieu of that respondent authorities has released only 40% of the payment.

(ii) For issuance of any other relief or reliefs”

2. The petitioner has been debarred from execution of contracts till completion of the work allotted to him. Reasons assigned in the impugned communication dated 24.02.2023 is not happily worded. To the extent that on one go Executive Engineer permits the petitioner to undertake remaining work and complete. On the other hand, executive engineer is debarring the petitioner for future works, in other words, there is no clarity.

3. That apart notice is not served upon the petitioner. It is submitted on behalf of the petitioner. All along, the



Executive Engineer used to have a communication to the petitioner through online. Whereas, the notice of debarring, it was sent through post. For want of non-availability of petitioner during the process of service of notice through post, it was returned. Further, Pin code in the address is wrongly given on behalf of respondent. In the result petitioner may not have been served. Thereafter, the Executive Engineer proceeded to pass the impugned communication dated 24.02.2023. Further, it is noticed that the Executive Engineer proceeded to debar the petitioner hurriedly. For the reasons that the allotted work to the petitioner was required to be executed on or before 26.01.2023. Whereas, the notice was issued on 24.02.2023, and thereafter proceeded to pass impugned order dated 11.03.2023 *vide* Annexure-1. These dates and events reveal that the Executive Engineer proceeded to debar the petitioner in a hurriedly manner.

4. In the light of these facts and circumstances, impugned communication dated 24.02.2023 stands set aside.

5. Matter is remanded to the Executive Engineer to proceed afresh after giving a detailed show-cause notice insofar as specific debarment. Thereafter, on receipt of petitioner's explanation, proceed to pass a fresh order. The above exercise



shall be completed within a period of two months from the date of receipt of this order.

6. The Executive Engineer is hereby directed to take note of Apex Court in the case of ***UMC Technologies Pvt. Ltd. vs. Food Corporation of India and Anr.*** reported in (2021) 2 SCC 551 read with ***Isolators And Isolators Through Its Proprietor Mrs. Sandhya Mishra vs. Madhya Pradesh Madhya Kshetra Vidyut Vitran Co. Ltd. & Anr.*** reported in 2023 SCC Online SC 444 before passing the final order.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

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