

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8122 of 2023

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M/s Vaishanavi Hospital Maurya Vihar Colony Transport Nagar, P.S.-
Agamkuan, District-Patna, through its Partner Namely Prince Kumar Tiwari,
aged 44 Years Male, Son of Late Dhruvdeo Tiwari, resident of Vaishnavi
Hospital, Krishna Niketan School Road, Near Baadshaahi Payeen,
Jakariyapur, P.S.-Gopalpur, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Planning and Development,
Government of Bihar, Patna.
3. The Joint Secretary, Department of Planning and Development, Government
of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Sr. Advocate Mr. Satish Kumar, Advocate Ms. Aanju Kumari, Advocate Mr. Adesh Raj Singh, Advocate
For the Respondent/s	:	Mr. Prabhu Narayan Sharma, Advocate

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

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

Date : 03-08-2023

Heard learned counsels for the respective parties.

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

“(i) Issuance of an appropriate writ
including a writ in the nature of writ of certiorari
quashing the order contained it Memo No. 01 /



Stha. - 02/11 – 2022 / 2509 / Yo. Vi. Dated 23.05.2023 issued by the respondent no. 3, Joint Secretary, Department of Planning and Development, Government of Bihar, (as contained in Annexure – 11 to this application).

(ii) Issuance of an appropriate writ including a writ in the nature of writ of mandamus commanding the respondents not to disturb the petitioner in performing its duty of outsourcing which it has been doing in terms of the Work Order dated 20.10.2022 (Annexure – 2) and Agreement dated 01.12.2022 (Annexure – 3).

(iii) Issuance of any other appropriate writ(s), order(s), direction(s) as may be deemed fit and proper in the facts and circumstances of the case.”

3. *Prima facie*, the petitioner has not been notified nor show cause notice has been issued as to why he shall not be blacklisted for a period of two years. On the other hand, show cause notices dated 17.02.2023 and 07.03.2023 in respect of certain defects in execution of certain works were issued. Further, it is noticed that the concerned respondent was stated to have



undertaken the exercise of holding an inquiry and inquiry report has been taken note of by the competent authority.

4. Learned counsel for the petitioner submitted that such action conducted by the concerned authority was behind the back of the petitioner. Taking note of all these facts and circumstances, on short question that the petitioner has not been given specific show cause notice insofar as blacklisting him for a period of two years and such action is contrary to decisions of Apex Court in the case of *UMC Technologies Pvt. Ltd. vs. Food Corporation of India and Another*, reported in (2021) 2 SCC 551 read with *Isolators and Isolators through its proprietor Mrs. Sandhya Mishra vs. Madhya Pradesh Madhya Kshetra Vidut Vitran Co. Ltd. and another*, 2023 LiveLaw (SC) 330. , the present writ petition is to be allowed. Accordingly, the impugned order dated 23.05.2023 vide Annexure – 11 stands set aside.

5. The concerned authority is hereby directed to proceed from the defective stage namely, issuance of show cause notice with specific actions to be taken insofar as blacklisting the petitioner. Inquiry be held in the presence of petitioner. If such notice along with report, if any, be furnished to the petitioner, the petitioner is hereby directed to file his objection/suggestion within a period of two weeks from the date of receipt of show cause



notice to be issued by the concerned authority. Thereafter, the concerned authority is hereby directed to pass detailed speaking order after taking note of each and every contentions raised by the petitioner against show cause notice.

6. The above exercise shall be completed within a period of three months from the date of receipt of copy of this order.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.08.2023
Transmission Date	NA

