

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10444 of 2022

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M/s Kumar A.S. Construction, Ashok Nagar, Bhatt Bigha, Gaya through its Managing Partner Smt. Pramila Singh age about 52 years (F) W/o Shri Anuj Kumar Singh, Resident of Mohalla - Ashok Nagar, Bhatt Bigha, Gaya, P.S. - Rampur, District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Engineer-in-Chief Rural Works Department, Government of Bihar, Patna.
3. The Chief Engineer - 1, Rural Works Department, Government of Bihar, Patna.
4. The Superintending Engineer, Rural Works Department, Work Circle - Gaya, District - Gaya.
5. The Executive Engineer, Rural Works Department, Gaya Division, District - Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Chitranjan Sinha, Advocate Mr. Ashok Kumar Dubey, Advocate Mrs. Mamta Vijaya, Advocate
For the State	:	Mr. Kumar Alok, SC 7 Mr. Satyeshwar Prasad, AC to SC 7

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

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

Date : 12-04-2023

Heard learned counsels for the respective parties.

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

“I. For issuance of an appropriate writ/writs, order/orders and/or direction/directions for quashing the



reasoned order of blacklisting contained in memo no. 2102 dated 16.07.2021 (Annexure-15 to the writ petition) issued by the Engineer-in-Chief by which the firm of petitioner has been blacklisted for the period of 10 years assigning reason of non-maintenance after construction of three roads within time out of 14 roads of package no. BR-12R-VI i.e., **(1) Farka More to Chhathera, 0.897 KM, Package Id No. (BR-12R-128), (2) Fatehpur Wazirganj Road to Mataso, 4.940 KM, Package Id No. (BR-12R-126) and (3) Dumari Chati Road to Bhawani Kalan, 3.621 KM, Package Id No. BR-12R-117.**

II. For quashing the appellate order dated 22.04.2022 contained in memo no. 3150 dated 31.05.2022 (Annexure – 18 to the writ petition) passed by the Secretary Rural Works Department Govt. of Bihar by which aforesaid blacklisting order has been affirmed and appeal has been rejected without considering the pleadings and without following the direction and order dated – 25.01.2022 passed in C.W.J.C. No. - 15199 of 2021 (Annexure-16 to the writ petition) by the Hon'ble High Court.

III. For any other relief/reliefs for which the petitioner is entitled in the eye of law.”

3. This is the second round of litigation in respect of blacklisting for a period of 10 years. Earlier the present petitioner filed C.W.J.C. No. 15199 of 2021 and it was disposed of on 25.01.2022 to exhaust alternative remedy of appeal before the appellate authority.

4. Pursuant to earlier order of this Court, the petitioner had preferred memorandum of appeal before the appellate authority and it was numbered as Appeal No. 65 of 2022 and it was decided



against him on 22.04.2022. Perusal of the appellate authority's order shows there is no consideration of each of the contentions stated in the memorandum of appeal. It is to be noted that in Paragraph No. 7 of the earlier order of this Court passed in C.W.J.C. No. 15199 of 2021, this Court specifically directed the appellate authority to deal with each and every point raised in the appeal. On the other hand, rejection of appeal dated 22.04.2022 is bereft of reasons insofar as rejection of each and every contentions stated in the memorandum of appeal.

5. Apex Court in the case of ***Kranti Associates (P) Ltd. v. Masood Ahmed Khan*** reported in (2010) 9 SCC 496, Paragraph No. 47, elaborately considered as how the judicial, *quasi* judicial and other orders should be. Paragraph No. 47 reads as under:

“47. Summarising the above discussion, this Court holds:

(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 Harvard Law Review 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 562 para 29 and *Anya v. University of Oxford* [2001 EWCA Civ 405 (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.”

6. In the light of the principle laid down by the Apex Court in the above cited decision, in respect of exercising *quasi* judicial functions, the concerned authority was required to take note of



each and every issues raised by the concerned party. In the light of the principle laid down by the Apex Court and the fact that appellate authority has not considered each of the contentions and so also order of this Court passed in C.W.J.C. No. 15199 of 2021 decided on 25.01.2022, in particularly paragraph No. 7, petitioner has made out a *prima facie* case so as to interfere with the impugned order dated 22.04.2022 and the same is set aside while remanding the matter to the appellate authority to decide the petitioner's Appeal No. 65 of 2022 afresh after taking note of the above cited decision read with paragraph No. 7 of the earlier order of this Court and proceed to pass afresh order within a period of three months from the date of receipt of this order.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.04.2023
Transmission Date	NA

