

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15369 of 2021

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M/s Kumar Abhishek Construction Ashok Nagar, Bhatt Bigha, Gaya through its Managing Partner, Sanjay Singh, age- 61 years, S/o- Late Jagdish Singh, Vill. and P.O.- Bodhibigha, P.S.- Dumariya, 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, Imamganj Division, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Dubey, Advocate Mr. Umashankar Singh, Advocate Ms. Mamta Vijaya, Advocate
For the Respondent/s	:	Mr. Kameshwar Prasad Gupta, GP-10 Mr. Virendra Kumar, AC to GP-10

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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)

13 13-07-2023 In the instant petition, petitioner has prayed for the following relief(s):-

“I. For issuance of appropriate writ/writs, order/orders and/or direction/directions in the nature of certiorari for quashing of letter no. -01 dated 02.01.2019 **(Annexure-11)** by which contract of agreement under Pradhan Mantri Gramin Sarak Yojana (herein referred as P.M.G.S.Y) package No.-BR-



12R-224 for construction of road from Jhikatiya to Khurd Baraj was terminated and proceeding of forfeiture of security deposited was started.

II. For quashing of consequential reasoned order contained in memo no. 179 dated 01.02.2019 (**Annexure-12**) and its amended reasoned order contained in memo No.-603 dated 24.05.2019 (**Annexure-24**) by which total liability upon Petitioner was calculated and fixed Rs. 55,35,364/- (Fifty five lacs Thirty Five Thousand three hundred sixty four) out of which security deposit of Rs. 10,44,000/- + amount of Jamanat Rs. 5,41,058/- + performance deposit Rs. 2,70,529/- + Amount of A.P.G. Rs. 19,68,000/- Total Rs. 38,23,587/- was forfeited and the Petitioner was directed to deposit the remaining Rs. 17,11,777/- through the Bank draft in the office of respondent concerned. The firm of Petitioner was recommended for blacklisting.

III. For quashing reasoned (blacklisting) order contained in memo no. 3308 of 10.09.2020 (**Annexure-32**).

IV. For quashing order dated 03.10.2020 (**Annexure- 33**) passed by Empowered Standing Committee headed by the Secretary Department Govt. Rural Works of Bihar by which Representation (Appeal) dated 23.01.2020 preferred against aforesaid rescind and its consequential orders was rejected without considering the facts, circumstances and contents of the Representation (Appeal).

V. For issuance of direction to refund the entire to forfeited money/Security Money deposited by the petitioner and dues of petitioner along with compound interest pendent and future @ 18% per annum to the petitioner.

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

2. We are interfering only in respect of blacklisting the petitioner for a period of ten (10) years. Matter was heard from time to time, asking the petitioner to furnish his reply to the blacklisting notice. The petitioner is stated to have submitted his reply, however, copy is not made available. On the other



hand, custodian of the original records – respondents made statement that office records were burnt in a fire accident on 11.05.2022. Thereafter, an F.I.R. was registered on 12.05.2022. In this backdrop, in order to render justice, the impugned blacklisting order dated 02.01.2019 is set aside and the matter is remanded to the concerned official respondent to proceed afresh in issuing a detailed specific notice of blacklisting the petitioner in the light of Apex Court's decision in the case of ***UMC Technologies Pvt. Ltd. vs. Food Corporation of India and Another***, reported in ***(2021) 2 SCC 551 (para-13 & 14)*** 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 (para-20)***.

3. In this regard, the official respondent is hereby directed to issue a specific notice within a period of one month from the date of receipt of this order. Thereafter, petitioner is permitted to file his explanation to the show cause notice within one month from the date of receipt of show cause notice. Consequentially, the Competent Authority is hereby directed to pass a detailed speaking order insofar as blacklisting is concerned and communicate the same.



4. The above exercise shall be completed within a period of four months from the date of receipt of this order.

5. The termination of contract and forfeiting EMD, if any, the petitioner is at liberty to invoke arbitration remedy, if it is available to him.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

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