

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10134 of 2023**

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Basant Kumar, Son of Ram Chandra Prasad, Permanent Resident of Village, P.O. and P.S.- Nauhatta, District- Rohtas, Bihar, Pin- 821304, presently residing at Mohalla Kailash Nagar, Ward No. 34, Street No.1, Near Mico Post, P.S.- Sasaram, District- Rohtas, State- Bihar- 821115.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Engineer in-Chief, Rural Works Department, Government of Bihar, Patna.
4. The Chief Engineer-2, Rural Works Department, Government of Bihar, Patna.
5. The Executive Engineer, Rural Works Department, Works Division, Manihari, Katihar.
6. The Assistant Engineer, Rural Works Department, Works Division, Manihari, Katihar.
7. Junior Engineer, Rural Works Department, Works Division, Manihari, Katihar.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Ashish Giri, Advocate<br>Mr. Sumit Kr. Jha, Advocate<br>Ms. Riya Giri, Advocate<br>Mr. Bivutosh Kr., Advocate |
| For the Respondent/s | : | Mr. Ajay, GA-5<br>Mr. Pratik Kr. Sinha, AC to GA-5                                                                |

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**and**  
**HONOURABLE MR. JUSTICE ARUN KUMAR JHA**  
**ORAL ORDER**

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

3      21-08-2023                      In the instant writ petition, petitioner has prayed for  
the following relief(s):

*“(i) To issue writ/order or direction in the  
nature of Certiorari for quashing order*



*bearing Memo No. 2132 dated 18.04.2023 issued under the signature of the Engineer-in-Chief, Rural Works Department, Government of Bihar, Patna in terms of which petitioner has been declared defaulter and debarred from participating in any other tenders in relation to the work bearing package No. (BR-168-392) L045-Dilarpur Hari Chauk to Sahpur in relation to NIT No. RWD/PMGSY/HQ/ET/2020- 21/15 at Sl. No.56.*

*(ii) To hold and declare that the impugned order of debarment dated 18.04.2023 is in fact blacklisting for indefinite period without considering explanation of the petitioner and hence violative of Article 14 and 19(1)(g) of the Constitution of India.*

*(iii) To pass interim/ad-interim relief staying the operation of impugned order dated 18.04.2023 and /or the petitioner be permitted to participate in future tender without prejudiced to the order impugned dated 18.04.2023 including tenders as contained in Annexure-12 series during the pendency of the present writ application.*

*(iv) To any other relief or reliefs for which the petitioners are found to be entitled in the facts and circumstances of the case.”*

2. Before passing the impugned order, the concerned authority is stated to have issued a show-cause notice on



27.02.2023 and it was communicated to the petitioner only on 01.04.2023, thereafter, the petitioner is stated to have filed his reply on 03.04.2023. These are all only empty formality as is evident from the impugned order dated 18.04.2023. In other words, there is no reference or analysis of petitioner's reply dated 03.04.2023. Therefore, the petitioner has made out a case so as to interfere with the impugned order dated 18.04.2023 (Annexure-10) insofar as petitioner's name at Serial No. 56 is concerned, it is set aside.

3. Accordingly, the writ petition allowed in-part, reserving liberty to the concerned authority to proceed further in accordance with law. The concerned authority is hereby directed to take note of judicial pronouncement like ***UMC Technologies Pvt. Ltd. vs. Food Corporation of India and Anr.***, reported in **(2021) 2 SCC 551** and later decision in the case of ***Isolators and Isolators Through Its Proprietor Mrs. Sandhya Mishra vs. Madhya Pradesh Madhya Kshetra Vidyut Vitran Co. Ltd. and Anr.***, reported in **2023 LiveLaw (SC) 330 (Para-34)** and principles laid down therein before proceeding further in the matter. The above exercise shall be completed within a period of three months from the date of receipt/production of a copy this order.



4. It is clarified that interim order dated 24.07.2023, insofar as staying of the impugned order dated 18.04.2023 vide Annexure-10, merges with the present order in the light of Apex Court decision in the case of *Kalabharati Advertising vs Hemant Vimalnath Narichania & Ors* reported in (2010) 9 SCC 437.

**(P. B. Bajanthri, J)**

**(Arun Kumar Jha, J)**

Himanshu/-  
Ashish/-

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