

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10569 of 2023

Pravin Kumar Singh S/o Ram Chandra Singh, resident of village - Relanarayan, Post - Ebrahimpur, Berua, P.S. - Gayghat, District- Muzaffarpur.

... .. Petitioner/s

Versus

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

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Singh, Advocate
For the Respondent/s : Mr. Raghwanand (GA 11)
Mr. Prabhat Kumar, AC to GA 11

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 07-10-2023

Heard learned learned counsel for the respective parties.

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

"(i) For issuance of an appropriate writ in the nature of certiorari for quashing the Memo no. 1120 dated 20.02.2023 by which the petitioner who is a contractor has been blacklisted for 10 years in view of Clause -11 (ka)(vi) of Bihar Contractor Registration Rule, 2007 read with clause -8 (i) (b) of office order No. 154 dated 18.06.2015 holding that the petitioner has not completed the work within the time and not given reply to the show cause, particularly when non of the conditions as



mentioned in the impugned letter is attracted in the case of petitioner, when the Respondent no.5 on 15.11.2019 on Measurement Book has categorically mentioned the cause of delay that road is damaged due to heavy flood in the year 2019 and the petitioner was directed to do full restoration work and the same was accepted by the petitioner but upon repeated requests, no re-estimate was made by the concerned authorities, moreover, the petitioner was not aware about either show cause notice or the final order; as he was under impression that any day the department will re-estimate for restoration of work;

(ii) For issuance of an appropriate writ in the nature of Mandamus Commanding and directing the respondent to restore the status of the petitioner, as if no adverse order has been passed against him and further a direction may be given for re-estimate the damaged road (L026 Ujwa to Simartoka VR8 (Tender ID-47759)) for full restoration, so that after completion of work the petitioner could get the payment.

(iii) For issuance of any other writ/writs, direction/directions, order/orders for which the writ petitioner shall be found entitled under the facts and circumstances of the case."

2. Perusal of the records, it is evident that petitioner has already invoked remedy of appeal before the appellate authority insofar as blacklisting order and it is still pending consideration before the appellate authority.



3. Learned counsel for the petitioner tried to apprise this Court on merits of the case with reference to entry of measurement book and appellate authority has not been identified appropriately.

4. In this backdrop, it is not proper to decide present matter on merit when the matter is seized before the appellate authority. There is no ambiguity in Rule 11(e) of Bihar Registration of Contractor Rules, (Rural Works Department) 2007. Rule 11 (e) reads as under:-

"11 (e) The contractor can file an appeal within thirty days against the punishment related black-listing /demotion/ suspension before the Commissioner and Secretary/ Secretary of the Department."

5. Reading of the aforementioned provision, there is no ambiguity insofar as identification of appellate authority like commissioner and Secretary/Secretary of the Department who ever is the holder of the post of Commissioner and Secretary (one common post) or Secretary of a department have entertained the petitioner's appeal and decided the appeal. Thus, the appellate authority is hereby directed to decide the petitioner's appeal within a reasonable period of four weeks from today. The appellate authority is also hereby directed to take note of quantum of blacklisting of 10 years may not commensurate with the alleged allegation or default on the part of the petitioner.



6. Accordingly, the present petition stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

