

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11616 of 2023

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M/s Centum Learning Limited Having its Place of Business at Nishuvi, Ground Floor, 75, Dr. Annie Besant Road, Worli, Mumbai-400018, through its authorized Signatory namely Mr. Virender Singh Rawat Son of Mr. Mohan Singh Rawat Resident of House No-72, Gali No-3, Block-B, Uttarakhand Shastri Park Part 1, Burari, North Delhi, Delhi-110084.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Labour Resources, Govt. of Bihar, Patna.
2. The Principal Secretary, Bihar Skill Development Mission, Govt. of Bihar, Patna.
3. Additional Chief Executive Officer, Bihar Skill Development Mission, Labour Resources Department, Govt. of Bihar,

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Lalit Kishore, Sr. Advocate Mr. Kumar Priya Ranjan, Advocate Ms Nirmala Singh, Advocate Mr. Anshul Rai, Advocate Mr. Girish Nandan Abhishek, Advocate Mr. Vibhuti Kumar, Advocate
For the Respondent/s	:	Mr. Amit Prakash (GA 13)

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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 : 22-08-2023

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

"(a) For issuance of a writ in the nature of certiorari for quashing the impugned letter dated 26.05.2023 issued by the additional chief executive officer, Bihar Skill Development Mission, Labour Resources Department, Government of Bihar as the same is against the principles of natural



justice and against the express provisions of tender/request for proposal;

(b) For further restraining the respondents from depriving the petitioner or in any manner affecting the participation of the petitioner in any of the tenders invited by any Government department of the state of Bihar and any of the corporation or company etc in light of the impugned letter as the same is illegal, arbitrary and violative of principles of natural justice;

(c) For holding and a declaration that the impugned letter dated 26.05.2023 inflicting punishment of debarment of the petitioner for a period of three years from the date of issuance of the said letter ought to have dealt with the reply submitted by the petitioner vide its letter dated 24.05.2023 and a speaking order should have been passed dealing with each and every contention of fact as well as law incorporated in the said reply and in absence of which the impugned letter from the error of violation of principles of natural justice for being nonspeaking and unreasoned.

(d) For further holding and a declaration that the impugned office order having not dealt with the issues of facts as well as law raised by the petitioner may not be allowed to sustain in the eyes of law as the same has drastic consequences of suspending the whole business activity of the petitioner as it will be debarred for a period of three years for applying in any tender of Bihar Skill Development Mission which is violative of the Fundamental Right of the petitioner for freedom of trade and profession in terms of Article 19(1)(g) of the Constitution of India;



(e) For grant of any other relief or reliefs to which the petitioner is found entitled to in the facts and circumstances of the case."

2. Learned counsel for the petitioner submitted that petitioner's grievance has not been redressed in the impugned letter dated 26.05.2023 in the light of show cause notice at Annexure-P/10 dated 11.05.2023 read with the petitioner's reply dated 24.05.2023.

3. It is submitted that in terms of point no. 6.5 and 6.6 of page 19 of the RFP each partner of the Consortium is entitled to show cause notice and other formalities if adverse order is required to be passed by the official respondents. *Prima facie*, the petitioner's objection/reply dated 24.05.2023 has not been considered insofar as debarring to work under any kind of programme under BSDM for a period of three years from the date of issuance of letter dated 26.05.2023.

4. *Per contra*, learned counsel for the respondents fairly submitted that petitioner's reply dated 24.05.2023 has not been dealt in the communication dated 26.05.2023 *vide* Annexure-P12. It is also submitted that grievance of the petitioner is only in respect of debarring for a period of three years and rest of the issues have not been challenged.

5. Heard learned counsels for the respective parties.



6. Having regard to the fact that petitioner's reply to show cause notice dated 11.05.2023 read with reply dated 24.05.2023 has not been taken note of and considered while passing order on 26.05.2023 (Annexure-P/12), the petitioner has made out a case. No doubt, petitioner is one of the partners. However, he has to be heard in the light of point 6.5 and 6.6 of Page 9 of the RFP. It is necessary to reproduce para 6.5 and 6.6 of page 19 of the RFP which clearly states as below:-

"6.5 All the partners of the Consortium shall be jointly and severally liable for the execution of the contract in accordance with contract terms, and a relevant statement to this effect shall be included in the authorization mentioned above as well as in the Form of tender and the Form of Agreement (in case of a successful bidder).

6.6 In the event of default, All the partners of the Consortium will retain the full and undivided responsibility for the performance of their obligations under the contract and/or for satisfactory completion of the work."

7. Reading of the aforementioned provision, it appears that it does not restrict issuance of show cause notice to lead partner. On the other hand, all the partners of the Consortium have to bear responsibility. Therefore, individual notice is required to be issued to the respective partners and issuing notice to lead partner



and marking a copy to the respective partners would not suffice.

On this score, petitioner has made out a case so as to interfere with the communication dated 26.05.2023 *vide* Anneuxre-P/12 and it is set aside reserving liberty to the respondents to proceed further in accordance with the relevant clause of RFP before taking any action insofar as debarring to work under any kind of programme of BSDM. The above exercise shall be completed within a period of three months from the date of receipt of this order.

8. Accordingly, the present writ petition stands allowed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Vikash/-

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

