

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16687 of 2019

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M/s Arvind Kumar Age-52 yrs, S/o Lt. Yogeshwar Prasad Singh, R/o Flat No.-401, Shakuntla Enclave, Sahjanand Path, Patel Nagar, Patna-23

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Building Construction Department, Govt. of Bihar, Bishwashraiya Bhawan, Bailey Road, Patna.
2. The Engineer-in-chief, Building Construction Department, Govt. of Bihar, Bishwashraiya Bhawan, Bailey Road, Patna
3. The Chief Engineer, North, BCD, Bishwashraiya Bhawan, Bailey Road, Patna.
4. The Superintendent Engineer, Building Circle, Motihari.
5. The Executive Engineer, Building Construction Department, Building Division, Motihari (East Champaran).

... .. Respondent/s

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Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr. Chitranjan Sinha (PAAG 2)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-01-2023

Petitioner has prayed for the following relief(s):

“i. For quashing the impugned order of debar issued by Ex. Eng, BCD Motihari Vide letter no-796 dt-14.06.2017, the general list of debar in which petitioner name on serial no-9 for unlimited period without authority or any work allotted/delayed and without any show cause notice and the Ex. Eng. forwarded to the chief engineer, North vide his letter no-882 (अनु०) मोति० dt-03.07.2019 and the Chief Engineer, North directed to I.T manager to upload on the departmental website vide his letter no-1720 dt-18.07.2019 by which debarred the



petitioner from participation in future tenders without authority or no any work having any deliberate default of the Petitioner and unfortunately the Respondent no-5 has debarred without authority and any work vide his letter no-796 dt-14.06.2017 and informed to the chief engineer, North who directed to I.T Manager to upload the list of debar on the departmental website with effect since 14.06.2017 whether no any work was delayed due with the petitioner. The petitioner drew attention of Ex. Eng and all respondents to delist his name from website because no any work was due & delayed with petitioner.

ii. For quashing the show cause notice dt-12.10.18 and 06.04.19 because the petitioner was recently awarded the work of Block IT centre building at Harsidhi block in the district of East Champaran on 28.03.2018 for its completion of one year 25.03.2019 but due to drawing & design, many tree plants are available on site, the work could not be started because removal of this tree plants are required for the permission of concerned department which was permitted and removed in the month of Oct. 2018 and work started in Nov 2018 which was informed within time to time to the respondents and now due to heavy rain/flood work is stopped. There is no deliberate default of the petitioner to complete the above work. The petitioner has completed more than 35%. Thus the principle of natural justice is violated also, moreover unless a third adjudicatory may not decide the laps no order affecting adversely against the Petitioner could be passed as held in NCC judgment passed by the Hon ble court, which has been upheld by the Division bench also, even then the order of debar has not been recalled despite repeated representation/s till



date and is continuing which is affecting the petitioner adversely, hence the order of debar may be quashed

iii. For restraining the respondents to deduct the penalty @ 10% from the gross bill of the petitioner for which petitioner is not guilty because clear site/drawing & design not made available till last week of Oct. 2018.

iv. For holding that the order of debar could not be passed after completion of more than 80% work pursuant to Memo no. 2131 dated 13.03.2009 issued by the RCD commissioner, Bihar, Patna wherein issuance of show cause notice and its consideration is made mandatory, but in the present case petitioner was debarred against no any work with effect since 14.06.2017 without authority for unlimited period. The request to delist his name from debar list showing sufficient reasons has not been considered and in violation of the Natural Justice, the impugned debar order has been passed which may be quashed allowing the petitioner to participate in the tenders.

v. For directing the respondent No.5 and 3 and other department concerned not to disqualify or cancel the tenders submitted by the petitioner if any, till disposal of the case.

vi. For change completion period of the work for 01.12.2018 to 31.03 2019 because due heavy rain & flood work may not be done in this three month from July 19 to Sept. 2019 and refund the deducted EOT penalty @ 10%.

vii. For granting any other relief/s to the petitioner to allow to participate in the tender for which the petitioner be found entitled in the eye of law.”



On 06.12.2022, we had passed the following order:

“Despite repeated calls, no one enters appearance on behalf of the petitioner.

In the interest of justice, matter is adjourned.

List on 24.01.2023, in the category of “Order Matters”.”

Even today, none has entered appearance on behalf of the petitioner.

As such, the present petition stands dismissed for default.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Saurabh/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	26.01.2023
Transmission Date	

