

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12290 of 2023

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Rohit Kumar Ojha son of Harendra Ojha, Resident of Middle Town, Nimage,
P.S. Brahmpur, District-Buxar.

... .. Petitioner/s

Versus

1. The Bihar State Educational Infrastructure Development Corporation Ltd.
(A Government of Bihar Underaking), Shiksha Bhawan, Bihar Rastra
Bhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna
800004 through its Managing Director.
2. The Managing Director, Bihar State Educational Infrastructure Development
Corporation Ltd., Shiksha Bhawan, Bihar Rastra Bhasha Parishad Campus,
Acharya Shivpujan Sahay Path, Saidpur, Patna 800004.
3. The Chief Engineer, Bihar State Educational Infrastructure Development
Corporation Ltd., Shiksha Bhawan, Bihar Rastra Bhasha Parishad Campus,
Acharya Shivpujan Sahay Path, Saidpur, Patna 800004.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan, Advocate
For the Respondent/s : Mr. Girijish Kumar, Advocate

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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 : 07-10-2023

Counter affidavit filed on behalf of the Respondent No.

3 is taken on record.

2. Heard learned counsel for the respective parties.

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



"(i) Quashing of the Notice to Show Cause contained in Letter No. 6727 dated 05.09.2022, by which. the Chief Engineer, (Respondent No. 3) has directed the petitioner to Show Cause as to why for the allegations of submission of false Experience Certificate in a Tender process action of blacklisting for a period of 10 years be not taken in terms of Contractors Registration Rules, 2012 (as amended) by 41st Meeting of the Board of Director vide Agenda No. 12/41;

(ii) Quashing of the consequential Office Order No. 226 dated 05.12.2022 as contained in Memo No. 9136 dated 05.12.2022 by which, the Chief Engineer, after obtaining approval from the competent authority i.e. Managing Director of the Corporation has blacklisted the Registration. of the petitioner for a period of 10 years on the allegation of submission of false Experience Certificate in terms of Contractors Registration Rules, 2012 (as amended) by 41st Meeting of the Board of Director vide Agenda No. 12/41; and

(iii) Restraining the Respondents from giving effect to the order of Blacklisting contained in Office Order No. 226 dated 05.12.2022 as contained in Memo No. 9137 dated 05.12.2022 during the pendency of the present application and /or without the leave of this Hon'ble Court;"



4. Perusal of the black listing order dated 05.12.2022 it is evident that it is not a speaking order. Further, we have perused show cause notice dated 05.09.2022 and it is also crystal clear that facts are not forthcoming as to which are the document to establish the proposition that petitioner has misled the respondent-corporation in furnishing certain alleged fake documents.

5. Learned counsel for the petitioner also submitted that the present orders have been passed by the incompetent authority.

6. On these two contentions, we allow the petition. However, in respect of competent authority is concerned, the corporation has to examine to the extent who is the competent authority. The competent authority is hereby requested to proceed afresh after giving ample opportunity of hearing of petitioner with reference to specific notice relating to blacklisting for number of years etc. in the light of Hon'ble Apex Court decision in the case of **UMC Technologies Pvt. Ltd. vs. Food Corporation of India and Another**, reported in **(2021) 2 SCC 551** 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**. Similarly, Hon'ble Apex Court reiterated its decision in the case of **State of Odisha**



& Ors. vs. Panda Infraproject Ltd. reported in **(2022) 4 SCC**

393. The relevant para no. 23 reads as under:-

"23. As observed by this Court in Gorkha Security Services v. State (NCT of Delhi) [Gorkha Security Services v. State (NCT of Delhi), (2014) 9 SCC 105] , the fundamental purpose behind the serving of a show-cause notice is to make the noticee understand the precise case set up against him which he has to meet. This would require the statement of imputations detailing out the alleged breaches and defaults he has committed, so that he gets an opportunity to rebut the same. Another requirement is the nature of action which is proposed to be taken for such a breach."

7. Recently, Apex Court in the case of **Singrauli Super Thermal Power Station vs. Ashwani Kumar Dubey and Ors.** reported in **(2023) 8 SCC 35**, it is held that any document is relied on in an order, copy of such document is to be served and opportunity is to be provided. The above citation may be taken into consideration while taking afresh steps in the matter.

8. Accordingly, the impugned order dated 05.12.2022 (Annexure- P/5) stands set aside. The above exercise shall be undertaken by the competent authority within a period of three months from the date of receipt of this order. All the contentions



are left open with the respective parties to be urged before the authority.

9. With the aforesaid observations, 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

