

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13263 of 2023

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Ramadhar Sah, Son of Ramsundar Sah, Resident of Ward No.15 (Now ward No.16), P.S- Sheohar, District- Sheohar, Bihar-843329.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Urban Development and Housing Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna- 800001.
2. The Managing Director, Bihar Urban Infrastructure Development Corporation Limited, Rajapur Pul, West Boring Canal Road, Patna- 800001.
3. The Chief General Manager, Bihar Urban Infrastructure Development Corporation Limited, Rajapur Pul, West Boring Canal Road, Patna- 800001.
4. The Superintend Engineer, Design, Planning, Monitotring, Bihar Urban Infrastructure Development Corporation Limited, Rajapur Pul, West Boring Canal Road, Patna- 800001.
5. The Project Director, Design, Planning, Monitotring, Bihar Urban Infrastructure Development Corporation Limited, Rajapur Pul, West Boring Canal Road, Patna- 800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Nikhil, Advocate
For the Respondent/s : Mr. Kinkar Kumar (SC 9)

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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)

2 20-09-2023 In the instant writ petition, petitioner has prayed for
the following relief(s):-

“(i) For issuance of writ in the nature of Certiorari quashing the letter bearing No. बुडको/ यो -2489/22 (पार्ट -2)-2749 dated 08.06.2023 issued by the respondent No.3, whereby the Respondent Bihar Urban Infrastructure Development Corporation Limited (hereinafter referred to as "BUIDCO") has been pleased to blacklist the petitioner for a continuous period of 10 years and also forfeited the advance money against bid security (EMD)



amounting to Rs.0.513 Cr. given in the form of Bank Guarantee with the tender by the petitioner in relation to the advertised work of Construction of Comprehensive Storm Water Drainage Systems in Patna Nagar Nigam, Khagaul, Danapur, Phulwarisharif and Adjoining Area of Catchment-6 (NIT NO-BUIDCO/Yo-2473/22 (Part-2)-45 dt. 08.11.2022, Groups-VI).

(ii) Consequent to the grant of relief as stated in Paragraph (i) the Respondent BUIDCO be directed to release/return the above mentioned forfeited advance money against bid security (EMD) amounting to Rs.0.513 Cr. in favour of the petitioner and also to remove the above blocklisting imposed for 10 years upon the petitioner.

(iii) For any other relief or reliefs which the petitioner may be found entitled to in the facts and circumstances of the case.”

2. The petitioner is alleged to have mislead the authorities in respect of acceptance of his bid application. The bid application was relating to construction of comprehensive storm water drainage systems in Patna Nagar Nigam, Khagaul, Danapur, Phulwarisharif and adjoining area of catchment-6. For the aforementioned allegation, a notice was issued to the petitioner for which petitioner had submitted his reply, thereafter, official respondent proceeded to blacklist the petitioner for a period of ten years while forfeiting the E.M.D. amount. Hence, the present petition.

3. Learned counsel for the petitioner submitted that there was no specific notice of blacklisting and further petitioner's contentions have not been appreciated by the concerned authority before blacklisting the petitioner and so also, forfeiting of E.M.D.



amount.

4. *Per contra*, learned counsel for the respondents resisted the aforementioned contention and submitted that it is an admitted fact that the petitioner has mislead the authorities insofar as uploading of the bid application in concerned, therefore, there is no infirmity in the blacklisting order.

5. Heard the learned counsels for the respective parties.

6. Perusal of blacklisting order dated 07.06.2023/08.06.2023 (Annexure-P-4), it is evident that notice was issued to the petitioner and he had submitted his reply. Perusal of the notice, it is evident that there is no specific notice of blacklisting the petitioner for a period of ten years and further there is no consideration of petitioner's contentions in his reply. Taking note of these dates and events, the petitioner has made out a case in the light of Apex Court decisions in the cases like ***State Bank of India and Ors. Vs. Rajesh Agarwal and Ors.*** reported in ***(2023) 6 SCC 1, UMC Technologies Pvt. Ltd. v. 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.



7. Accordingly, order dated 07.06.2023/08.06.2023 (Annexure-P-4) stands set aside. Reserving liberty to the concerned official to proceed afresh while taking note of the principles laid down by the Apex Court decisions cited (supra).

8. Concerned authority is hereby directed to take note of the fact that imposition of blacklisting for ten years would be too harsh having regard to the alleged allegations levelled against the petitioner. This may also be taken note of by the concerned authority while passing a fresh order.

9. The above exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

10. Accordingly, the writ petition stands allowed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Balmukund/
Himanshu/-

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