

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12494 of 2023

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M/S J.M. Vaghasiya a Partnership Firm, having its registered office at 516 to 519, Vishala Suprime, Opp. Torrent Power Station, S.P. Ring Road, Nikol, Ahmedabad-382350, Gujarat through its Partner Vaghasiya Jagdishkumar Maganlal, Gender-Male, age about 39 years, son of Maganlal, resident of A-603, Aradhna Residency, Opp Devnandan Residency, Nr Gangotri Circle, Ahmedabad City, Ahmedabad, Gujarat-382350.

... .. Petitioner/s

Versus

1. The Bihar Urban Infrastructure Development Corporation Limited (A Government of Bihar Undertaking) Raja Pur Pul, West Boring Canal Road, Patna-800001 through its Managing Director.
2. The Managing Director, Bihar Urban Infrastructure Development Corporation Limited (A Government of Bihar Undertaking), Raja Pur Pul, West Boring Canal Road, Patna-800001.
3. The Chief General Manager Bihar Urban Infrastructure Development Corporation Limited (A Government of Bihar Undertaking), Raja Pur Pul, West Boring Canal Road, Patna-800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Girijish Kumar, Advocate
For the Respondent/s : Mr. Lalit Kishore, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

5 06-11-2023 In the instant petition the petitioner has prayed for following reliefs.

(i) Quashing of the Notice to Show Cause dated 15.05.2023 as contained in Letter No. yo-1943/20(P-3)-2241 issued by the Chief General Manager, BUIDCO (Respondent No. 3) by which, the petitioner has been asked to Show Cause as to why for the allegations of submitting wrong experience Certificate, actions has been taken in the light of referred letter – 3 of Urban



Development and Housing Department, Government of Bihar, Patna, Bihar and directed to file reply within 3 days.

(ii) Quashing of the Notice to Show Cause dated 24.05.2023 as contained in Letter NO. yo-1943/20(3)-2428 issued by the Chief General Manager, BUIDCO (Respondent No. 3) by which, the petitioner has been asked to Show Cause as to why for the allegations of submitting wrong experience Certificate, action has been taken in the light of referred letter-3 of Urban Development and Housing Department, Government of Bihar, Patna, and directed to file reply within 3 days.

(iii) Quashing of the consequential Office order issued vide memo no. 2949 dated 20.06.2023 issued by the Chief General Manager, BUIDCO (Respondent No. 3) by which, in the light of letter of Urban Development and Housing Department, Government of Bihar, Patna letter no. 926 dated 23.07.2018, the petitioner has been debarred for a period of 10 years in participating in future tender.

(iv) A declaration to the effect that the aforesaid order of debarment dated 20.06.2023 contained in Office Order issued vide Memo No. 2949 shall not be an impediment and the consideration of the Tender which have already been submitted by the petitioner; and

(v) Staying the operation of order of debarment dated 20.06.2023 contained in Office Order issued vide Memo No. 2949 issued by the Chief General Manager, BUIDCO (Respondent No. 3) as contained in Annexure- P/6 during the pendency of the present writ application.

2. The petitioner has been debarred for a period of ten years vide communication dated 20.06.2023, Annexure –



P/6.

3. In support of the petition, learned counsel for the petitioner submitted that there is no specific notice and not providing opportunity to meet the debarment for a period of ten years. He has submitted that he has civil consequences and that his livelihood would be taken away for a period of ten years. On this score the impugned order dated 20.06.2023 is liable to be set aside.

4. Per contra, learned counsel for the respondents has not disputed in so far as providing a show cause notice or opportunity of hearing before debarring the petitioner for a period of ten years. Even though, certain show cause notice is stated to have been issued.

5. In none of the show cause notice or informing the petitioner that there is proposal for debarring the petitioner for a period of ten years. On this point Apex Court has held that wherever the livelihood is involved, in such circumstances concerned person is required to be heard in the matter. Further, in respect of debarring or blacklisting the contractor for a certain period, in such circumstances the concerned authority was required to specify the period of blacklisting or debarring the contractor. On this point the petitioner has made out a case.



6. Accordingly, the impugned order dated 28.06.2022 Annexure-P/6 stands set aside reserving liberty to concerned authorities to proceed in accordance with law. The concerned authority is hereby directed to take note of various judicial pronouncements like *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. and another*, 2023 Livelaw (SC) 330 and latest decision in the case of *State Bank of India Versus Rajesh Agarwal and others*, reported in (2023) 6 SCC 1.

7. The concerned authority is hereby directed to issue a detailed specific notice of blacklisting or debarring the petitioner for a particular period.

8. On receipt of show cause notice, the petitioner is hereby directed to furnish his explanation. On receipt of petitioner's explanation, the concerned authority is hereby directed to proceed to pass detailed speaking order after due consideration of each of the contentions to be raised by the petitioner against the show cause notice to be issued by the concerned authority. The above exercise shall be completed within a period of four months from the date of receipt of this



order.

9. Writ petition stands disposed of.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

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