

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13207 of 2023

M/s Bharat Infrastructure a partnership firm having its registered office at 1429 Opposite, M-2/10, North S. K.Puri, Police Station-S.K. Puri, Boring Road, Patna through one of the partners, namely Rakesh Kumar (Male), aged about 48 years, son of Nageshwar Prasad Singh, resident of Singh Palace, Alpana Bank Colony, Ram Jaipal Road, near B.R. Ambedkar Dental College, Police Station-Rupaspur, Danapur, District-Patna.

... .. Petitioner/s

Versus

1. The Bihar State Educational Infrastructure Development Corporation Limited (A Government of Bihar Undertaking) 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.
4. The Executive Engineer (Head Quarter) Bihar State Educational Infrastructure Development Corporation Ltd. Shiksha Bhawan, Bihar Rastra Bhasha Parishad Campus, Acharya Shivpujan Sahay Path, Saidpur, Patna-800004.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar, Advocate

For the Respondent/s-BSEIDC: Mr.Girijish Kumar, Advocate

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 petition, petitioner has prayed for the following relief(s):-

(i) Quashing of the Office Order No. 169 dated 25.06.2023 as contained in Memo No. 5188 dated 25.06.2023 by which the petitioner has been debarred from participating in the future contract purportedly in terms of Clause 11(क) (ii) of the Bihar Contractors



Registration Rules, 2007.

(ii) Restraining the Respondents from giving effect to the order no. 169 dated 25.06.2023 during the pendency of the instant writ application and for without the leave of this Hon'ble Court.

(iii) To any other relief or reliefs to which the petitioner is entitled in the facts and circumstances of the case.

2. It is necessary to reproduce blacklisting order dated

25.06.2023 (Annexure-2):-

"कार्यालय-आदेश

संख्या- 169

दिनांक-

25/06/2003

पटना (पश्चिमी) प्रमंडल के क्षेत्राधीन "Construction of Class Room Building and Library at Shanti Prasad Jain College, Sasaram के भवन का निर्माण कार्य (इकरारनामा संख्या-109 F2 of 2021-22, दिनांक 16.07.2021) एवं कार्य समाप्ति की तिथि दिनांक 15.11.2021 से 01 वर्ष 07 माह से अधिक समय बीत जाने के उपरांत भी संवेदक M/S Bharat Infrastructure, 1429 Opp. M-2/10 North S.K. Puri, Boring Road, Patna द्वारा कार्य पूर्ण नहीं किया गया है। वर्तमान में भी कार्य की प्रगति असंतोषजनक है। तदालोक में कार्यपालक अभियंता (मु०) के अनुशंसा एवं प्रबंध निर्देशक द्वारा दिनांक-03.05.2023 की बैठक की कार्यवाही ज्ञापांक -BSEIDC/TECH 1132/2016-3865 दिनांक-06.05.2023 के आलोक में संवेदक M/S Bharat Infrastructure, 1429 Opp. M 2/10 North S.K. Puri, Boring Road, Patna करने का निर्णय लिया गया है।

वर्णित पारस्थिति में एकरारनामा के अनुसार कार्य निष्पादन में चूक के लिए सम्यक विचारोपरांत बिहार ठीकेदारी निबंधन नियमावली 2007 को कंडिका-11 (क) की उप कंडिका-II के तहत "M/S Bharat Infrastructure, 1429 Opp, M 2/10 North S.K. Puri, Boring Road, Patna" को



उक्त कार्य के पूर्ण नहीं किये जाने के कारण निगम द्वारा Defaulter घोषित करते हुए इन कार्य के पूर्ण होने तक अगली निविदा में भाग लेने से वंचित किया जाता है। यह आदेश पत्र निर्गत की तिथि से प्रभावी होगा।

इस पर सक्षम प्राधिकार का अनुमोदन प्राप्त है।

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मुख्य अभियंता"

3. Perusal of blacklisting order dated 25.06.2023 (Annexure-2) shows the petitioner was blacklisted without giving any specific show cause notice and so also, petitioner has been blacklisted till completion of the work allotted to the petitioner/till next tender. That apart, it is not a speaking order. On these counts, the petitioner has made out a case in light of the Apex Court's decisions in the case(s) of ***State Bank of India and Ors. Vs. Rajesh Agarwal and Ors.*** reported in (2023) 6 SCC 1, ***UMC Technologies Pvt. Ltd. vs. 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.

4. Accordingly, the blacklisting order dated 25.06.2023 (Annexure-2) is set aside. Reserving liberty to the



concerned authority to proceed in accordance with law after taking note of the principle laid down by the Apex Court's decisions cited (supra).

5. The above exercise shall be completed within a period of three months from the date of receipt of a copy of this order. The petitioner shall be given ample opportunity of hearing.

6. Accordingly, the writ petition stands allowed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Himanshu/-
Balmukund/-

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