

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6897 of 2018

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Tufail Ahmad Khan, Son of late Safi Ahmad Khan, Resident of Village-
Belbanwa, P.O. and P.S.- Motihari Town, District-East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar, through the Principal Secretary, Building Construction Department, Government of Bihar, Patna.
2. The Chief Engineer, Uttar Bihar Sub-Division, Building Construction and Awas Department, Patna.
3. The Superintending Engineer, Building Construction Department Circle, Motihari, East Champaran.
4. The Executive Engineer, Building Construction Division, Motihari, East Champaran.
5. The Engineer-in-Chief-Cum-Deputy-Cum Special Secretary, Building Construction Department, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shakil Ahmad Khan, Advocate
For the Respondent/s : Mr. K.K. Singh, AC to GP-22

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ARUN KUMAR JHA)

Date : 17-03-2023

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition has been filed claiming the
following reliefs :-

*“(A) For quashing the Letter No.7974(M) dated
05.09.2017 (Annexure-1), issued from the office of
Bihar State Building Construction Department,
Patna and further by vacating the aforesaid order
dated 05.09.2017 restore the License of the
petitioner to its original form and the petitioner be*



allowed to work as usual.

(B) For that the respondent- authorities further be directed not to disturb the petitioner's License bearing Licence No.313/Bhawan/2016 which is still valid and effective till date.

(C) For granting any other appropriate relief/reliefs to the petitioner as your Lordships may deem fit and proper in the facts and circumstances of the case”.

3. The short facts, according to the petitioner, are that the petitioner was registered Class III (Personal) Contractor of Building Construction Department, Building Division, Motihari. On 14.02.2017, the petitioner sent an application to the Engineer-in-Chief, Building Construction and Housing Department, Bihar, Patna stating therein that the Superintending Engineer, Prabhat Kumar and Executive Engineer, Sharad Chand demanded illegal gratification over work done by him in the Building of Motihari Civil Court in the year 2015-16 and the bill of the petitioner was still pending in the Department. Thereafter, the petitioner personally visited to the respondents for payment of bill of work, but they abused and assaulted the petitioner and refused to pay the bill. Thereafter, the petitioner lodged the FIR bearing Motihari Town P.S. Case No.105 of 2017 on 18.02.2017 under Sections 341, 323, 325, 379, 504/34 of Indian Penal Code against the respondent-authorities.



However, on 16.02.2017, the respondents have filed an FIR bearing Motihari (Town) P.S. Case No. 95 of 2017 under Sections 147, 148, 341, 323, 353, 379, 504, 506 of the Indian Penal Code. Thereafter, on 12.06.2017, a letter was issued from the office of the Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary to the petitioner in which an explanation was asked regarding the incident of 16.02.2017. Pursuant to the aforesaid letter dated 12.06.2017, the petitioner submitted his explanation on 21.06.2017. Thereafter, vide office order dated 05.09.2017, the Licence No.313 (Personal)/Bhawan/2016 of the petitioner has been blacklisted for the period of 10 years. Being aggrieved by the action of the respondents, the petitioner has filed the present Writ.

4. The learned counsel for the petitioner has submitted that after completion of the work, when the petitioner went to the office of the respondents and requested them for making payment of his bill, all the respondents misbehaved with the petitioner for which he lodged an FIR against the officials of the respondents. Due to this fact, impugned order has been passed against the petitioner. The learned counsel for the petitioner has further submitted that there is no reason to take such a major step, but for the benefit of respondents, the action for



blacklisting the licence of the petitioner has been taken by the respondents. The learned counsel further submitted that the impugned order has been passed against the petitioner by the respondent authorities without holding proper enquiry and without considering his reply in the matter and, as such, the impugned order is a clear misuse/abuse of power of the respondents on the basis of non-existent ground.

5. On the other hand, the learned counsel for the respondents while justifying the reasons for blacklisting the licence of the petitioner, vehemently contended that the petitioner has not made out any ground which would justify his action in pursuance of which the impugned action was taken after compliance of principles of natural justice. The conduct and behaviour of the petitioner had been out-rightly criminal in nature and if no action would have been taken against him, it would have jeopardized the whole work environment of the Division and also the morale of employees. Hence, no interference is required by this Court in this matter.

6. Having considered the material available on record and rival submissions, it appears that the petitioner along with his associates entered into the office of the Building Division, Motihari and started assaulting Sri Suraj Kumar, the



Correspondence Clerk as well as Chuman Prasad, Peon and abused them. Those persons reached the residence of the Executive Engineer as well. The miscreants threatened the office bearers and staff that they would have to act on their dictates if they wanted to work at Motihari and they also looted away cash as well as other belongings of the employees. Thereafter, Motihari (Town) P.S. Case No. 95 of 2017 was lodged against the petitioner as well as other miscreants on the written application of Suraj Kumar, Correspondence Clerk. The action of the petitioner created unwanted disturbance and hindrance in execution of public work in the Division and it was completely a criminal act on his behalf.

7. Furthermore, the FIR of the respondents was registered on 16.02.2017 whereas the FIR of the petitioner is dated 18.02.2017 which show, it has been filed after due deliberation as a counterblast to the criminal case of the respondents. It shows the criminal bent of mind of the petitioner.

8. It further appears that the concerned officers recommended for blacklisting of petitioner's licence under the provisions of Bihar Contractor Registration Rules, 2007. The petitioner was issued a show cause notice vide letter dated 12.06.2017 and he submitted his explanation vide letter dated



21.06.2017. The said explanation was considered and rejected by the impugned order. Thus, the order of blacklisting was issued only after giving due opportunity to the petitioner and consideration of his explanation and he could not produce any material or reason so as to challenge the order of blacklisting.

9. It is well settled principle of law that the constitutional courts are expected to exercise restraint in interfering with the administrative decisions and they ought not to substitute their views substituting that of the administrative authority.

10. Further, this Court finds and holds that no illegality or irregularity has been committed in blacklisting the licence of the petitioner and the reasons assigned for the same are well justified and the same do not require interference by this Court.

11. Accordingly, this writ petition stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	21.03.2023
Transmission Date	N.A.

