

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24177 of 2018

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M/s Siemens Construction Corporation through its Managing Partner, Mr. Rakesh Ranjan, B-29, Abhiyanta Nagar, Ashiyana-Digha Road, Near Post Office, Patna-25

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Cum Appellate Authority, Road Construction Department, Government of Bihar, Vishwasharaiya Bhawan, Bailey Road, Patna.
2. The Chief Engineer, Road Construction Department, Government of Bihar, Vishwasharaiya Bhawan, Bailey Road, Patna.
3. The Chief Engineer, N.H. Wings, Bihar, Patna, Vishwasharaiya Bhawan, Bailey Road, Patna.
4. The Executive Engineer, Road Construction Department N.H. Division, Gulzarbagh, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanchay Srivastava, Advocate Mr. Sourav Suman, Advocate Mr. Aalekh Anand, Advocate Mr. Sushant Srivastava, 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 ORDER

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

6 02-05-2023 In the instant petition, petitioner has prayed for the following relief(s):-

“I. That the present writ application is being filed for issuance of an appropriate writ order/direction(s) in the nature of certiorari for quashing and setting aside the order of blacklisting vide letter No. प्र- 7 विविध- 86/2017-2125 dated 20.03.2018(contained in Annexure-P/9 series) on the ground of same being blatantly illegal, without jurisdiction, mala fide & violative of Bihar Contractors Registration Rules, 2007



and in complete contravention of principles of natural justice;

II. That the present writ application is being filed for issuance of an appropriate writ order/direction(s) in the nature of mandamus for a direction to the concerned Respondents to revoke the Order of blacklisting of the petitioner and to further allow the petitioner to do the remaining work;

III. That the present writ application is being filed for issuance of an appropriate writ order/direction(s) in the nature of Mandamus for a mandatory injunction commanding the concerned respondents to forthwith withdraw, rescind and/or cancel the Order of Blacklisting of the petitioner for 10 years without any reason whatsoever and to allow him to participate in other/different tender(s) issued by the concerned respondents;

IV. And for issuance of any other relief or relief(s) for which the petitioner is entitled for.”

2. Petitioner has been blacklisted for 10 years without following due process of law like issuance of show cause notice and other formalities. Insofar as blacklisting process is concerned, show cause notice must be very specific.

3. Apex Court in the case of ***UMC Technologies Pvt. Ltd. v. Food Corporation of India and Anr.***, 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 Anr.***, reported in



2023 LiveLaw (SC) 330 laid down principle to be adhered.

4. Overall view of the Court insofar as blacklisting matters, the authorities were required to take note of the following points.

(i) The order of blacklisting involving civil consequences cast slur. Such an action can be taken only on the basis of objectives satisfaction of the authority concerned. The fundamental of fair play require that the person concerned should be given an opportunity to present his case before he is put on blacklisting.

(ii) The notice of blacklisting must specifically spell out the intention of blacklisting.

(iii) The order of blacklisting must be speaking order supported with reasons.

(iv) Blacklisting cannot be for an indefinite period and the period of blacklisting should be fixed based on doctrine of proportionality of the case.

5. Accordingly, the petitioner has made out a *prima facie* case so as to interfere with the impugned order dated 20.03.2018 (Annexure-P/9 series) and it is set aside reserving liberty to the concerned respondent to proceed in accordance with law within a period of three months from the date of



receipt of this order. Concerned respondent shall take note of the aforementioned decisions of the Apex Court.

6. Accordingly, the writ petition stands allowed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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DKS/-

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