

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25511 of 2019

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M/s S.K. Enterprises through its Partner Smt. Snehlata, aged about 47 years (F), Wife of Sri Sanjay Kumar, Resident of Mohalla- Mithapur (Bighrapur), New Bas Stand, Shubham Kunj, P.O.- Patna G.P.O., P.S.- Jakanpur, District- Patna, State- Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Works Department, Vishweshwaraiya Bhawan, Bailey Road, Patna-15.
2. The Secretary, Rural Works Department, Vishweshwaraiya Bhawan, Bailey Road, Patna-15.
3. The Engineer-in-Chief, Rural Works Department, Vishweshwaraiya Bhawan, Bailey Road, Patna-15.
4. The Chief Engineer-1, Rural Works Department, Vishweshwaraiya Bhawan, Bailey Road, Patna-15.
5. The Superintending Engineer, Rural Works Department, Works Circle, Gaya.
6. The Executive Engineer, Rural Works Department, Works Division, Nawada, District- Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Narayan, Sr. Advocate Mr. Manish Sahay, Advocate Mr. Anil Kr. Sinha, Advocate Ms. Sanjana, Advocate
For the Respondent/s	:	Mr. Dharendra Kumar, AC to AAG-6

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

Date : 24-03-2023

Heard learned counsels for the parties.

2. In the instant petition, petitioner has prayed for
following reliefs:-

"1. That this writ application is
being filed issuance of a writ or writs in the



nature of "Certiorai" or any other appropriate writ/writs, order/ orders, direction/ directions, following **RELIEF(S):-**

(I) **For quashing of** blacklisting order, issued vide office order and Memo No.14/अमर-3-63/14 10121 dated 18.08.2015 under signature of Engineer-In-Chief (ie the Respondent No. 3) as contained in **Annexure-P-11**, whereby and where under the petitioner has been blacklisted for indefinite period in most arbitrary and very confidential manner as well as violating the interim order passed by Bihar Public Works Contracts Disputes Arbitration Tribunal, Patna in Reference Case No. 141 of 2013.

(II) **For declaration** that the action of the Engineer-In- Chief was totally arbitrariness, malicious, illegal, colorable exercise of power as well as contemptuous.

(III) **For passing such** an order or orders as your lordships may please to deem fit and proper in the facts and circumstances of this case."

3. Though the writ petition is belated by four years.

However, it is continuing cause of action for the petitioner for the reasons that for indefinite period he has been blacklisted. Blacklisting of a contractor for indefinite period has been deprecated by the Apex Court in the case of *M/s Chauhan Builders Raibareli vs. State of Uttar Pradesh & Ors.* in *SLP (C) No. 32840 of 2018*.

4. In the light of these facts and circumstances and



the fact that blacklisting order was issued behind the back of the petitioner, in other words, he has not been provided opportunity of show cause and other formalities, the petitioner has made out a *prima facie* case so as to interfere with the blacklisting order dated 18.08.2015. Accordingly, it is set aside reserving liberty to Respondent No. 3- Engineer-in-Chief to pass afresh order while taking note of Apex Court's decision and the fact that petitioner has already suffered blacklisting order for eight years. In this regard, show cause notice shall be issued to the petitioner and on receipt of petitioner's reply, 3rd Respondent is hereby directed to pass a detailed order and communicate the same within a period of two months from the date of receipt of petitioner's reply to the show cause notice.

6. Accordingly, the present petition stands allowed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

rakhi/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.03.2023
Transmission Date	N.A.

