

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2207 of 2024

Ms. Madhava Construction through its Proprietor Madhav Prasad Singh, aged about 35 years (Male), Son of Bipin Bihari Singh, Resident of Village- Andama, P.S.- Bahadurpur, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Building Construction Dept., Govt. of Bihar, Patna.
2. The Engineer in Chief, Building Construction Dept., Govt. of Bihar, Patna.
3. The Chief Engineer (North), Building Construction Dept., Patna.
4. The Internal Financial Advisor, Building Construction Dept., Patna.
5. The Superintending Engineer, Building Construction Dept., Circle- Darbhanga.
6. The Executive Engineer, Building Construction Department, Madhubani.
7. Prajapati Choudhary son of Ram Udgar Chaudhary, Resident of Village and Post- Panchobh, P.S.- Bishanpur, District- Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shivendra Kumar Sinha, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, AG

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-02-2024

The petitioner is aggrieved with the disqualification of his tender on the ground that he was debarred by the Rural Works Department. The petitioner contends that the debarment was set aside and that he was never issued with a notice and hence not aware of the debarment.

2. The learned counsel appearing for the respondent authority, who disqualified the petitioner, however,



points out from page-37 of the writ petition that it was not for debarment, but for the suppression of such debarment in the bid document, that the petitioner was disqualified.

3. Admittedly, the last date for submission of the tender, the disqualification of which is challenged herein, was on 22.09.2023. The petitioner submits that the tender was submitted on that date. The petitioner's counsel also relies on Annexure-P/7 judgment of this Court, which set aside the debarment, the suppression of which is now relied on for his disqualification.

4. Annexure-P/7 set aside the debarment for reason of no notice having been issued. What is pertinent is that the debarment was set aside by this Court only on 06.11.2023, after the last date of the tender. We have verified with the Registry as to the date of filing of *C.W.J.C. No. 12454 of 2023* titled as *Madhav Prasad Singh v. The State of Bihar & Ors.*, which led to Annexure-P/7 judgment. We are told that the writ petition itself was filed on 12.07.2023, hence, the petitioner was aware of the debarment and had also filed a writ petition from the order of debarment. While the writ petition was pending, the tender was submitted on 22.09.2023, when he should have disclosed the matter of debarment. The petitioner having not



disclosed the debarment in the bid document, the petitioner is not entitled to seek invocation of extraordinary remedy under Article 226 of the Constitution of India. As rightly pointed out by the learned counsel for the respondent; the disqualification is not on account of debarment, but suppression of the said fact.

5. The writ petition, hence, would stand dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

aditya/-

AFR/NAFR	
CAV DATE	
Uploading Date	07.02.2024.
Transmission Date	

