

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4339 of 2024

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M/s Shivam Construction a partnership firm registered with Rural Works Department, Government of Bihar having Registration no. 2170620 having its office at Pitamaheshwar (T.O.P.), Police Station - Civil Lines, District - Gaya, Bihar Through its Managing Partner Madhu Devi, (Female), aged about 43 Years, wife of Shambhu Sharan Singh, resident of Village/Mohalla- Pitamaheshwar, Police Station - Civil Lines, District- Gaya, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through The Secretary, Rural Works Department, Patna, Government of Bihar.
2. The Engineer in Chief, Rural Works Department, Patna, Government of Bihar.
3. The Chief Engineer-1, Rural Works Department, Government of Bihar, Patna, Bihar.
4. The Superintendent Engineer, Rural Works Department, Government of Bihar, Work Circle, Gaya.
5. The Executive Engineer, Rural Works Department, Government of Bihar, Works Division - Tekari, Gaya.
6. The Assistant Engineer, Rural Works Department, Government of Bihar, Works Division -Tekari, Gaya.
7. The Junior Engineer, Rural Works Department, Government of Bihar, Works Division - Tekari, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Avinash Kumar Singh, Advocate
For the Respondent/s : Mr.Government Advocate (5)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT



(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-03-2024

The petitioner, a Class-II contractor with Rural Works Department, Government of Bihar, is before this Court challenging the order of blacklisting issued at Annexure-5 for 10 years. Learned Counsel for the petitioner submits that neither was the show cause notice at Annexure-4 issued to the petitioner nor was Annexure-5 order issued and hence, the delay in approaching this Court. It is also pointed out that the petitioner had taken out two contracts both of which were completed, one with a slight delay of five months. The objection by the authorities arose by reason of non-maintenance, which was also a condition, for the five years period after completion of the work. The person who is representing the petitioner, one of the partners, also suffered Corona. The objection was only with respect to non-maintenance between March-2021 and July-2021. The petitioner was permitted to carry on the repair work even after that, for which learned counsel specifically refers to Annexure-2 series which is dated 03.01.2022.

2. The learned Government Advocate, on the other hand submits that the notices were issued and the order was also served on the petitioner. It is pointed out that the order itself is



of 18.08.2021 and the petitioner never raised a contention of no notice having been issued on, 23.05.2023, when Annexure-6 reply was given.

3. We have gone through the records and heard learned Counsel for the parties.

4. The petitioner was awarded two works one, seen from Annexure-1 (construction of repair road from Guraru Surya Mandir to Itwan Manjhar Via Mahuli Road with Five Year maintenance under Head 3054 M/R, Length 12.30 Km) the other, seen at Annexure-3 (construction of C.D Works with maintenance from L027-Jungaldiha to Tanti (VR27) Package No:- BR-12R-933 under PMGSY Length 5.802 Km). The first contract was to commence on 12.01.2017 and end on 11.10.2017, which was successfully completed. The next contract was to commence on 14.11.2017 and be concluded on 13.11.2018. There was a slight delay of five months and the contract was completed on 13.04.2019. The petitioner was obliged to maintain the road, repaired and constructed, till 2022, in the case of the first contract and till 2024, in the case of the second contract.

5. Obviously, there was laxity insofar as the maintenance to be carried out on the road and Annexure-5 order



was issued on 19.08.2021. The petitioner had made a submission, as early as on 28.10.2021 which is produced along with Annexure-6 series, wherein, he contends that neither was the order furnished to him nor was the show cause notice served. However, later also other representations were made which is evident from Annexure-6 series. Merely, on the continuance of the maintenance work granted to the petitioner, the petitioner failed to challenge the order. The challenge is now grossly delayed insofar as it is made after more than two years. The defect which led to the cancellation is also admitted.

6. Considering only the fact that the petitioner was asked to maintain the road, which is in continuance of the contract, and that the blacklisting order was of 10 years, we direct the authority to consider the claim of the petitioner to either lift the blacklisting or have a shorter period.

7. In such circumstance, we direct the petitioner to submit a representation within a period of two weeks from the date of receipt of the certified copy of this judgment and the same will be considered by the authority especially looking into the fact that the petitioner had been maintaining the road even after the blacklisting order was issued. On the representation being filed by the petitioner, the matter will be considered after



affording an opportunity of hearing to the petitioner and a speaking order will be passed within a period of one month.

7. The writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.03.2024
Transmission Date	NA

