

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7731 of 2024

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Dayanand Kumar Son of Nageshwar Prasad Sah R/o Dumaria, Ward no. - 30,
near Kali Mandir, Anechal Kishanganj, P.S. and District- Kishanganj, Bihar
(855108).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department,
Government of Bihar, Patna.
2. The Engineer-in-Chief-cum-Additional Commissioner-cum-Special
Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Superintending Engineer, Rural Works Department, Kishanganj, Bihar.
4. The Executive Engineer, Rural Works Department, Kishanganj Circle-1,
Kishanganj, Bihar.
5. The Executive Engineer, Rural Works Department, Kishanganj Circle-2,
Kishanganj, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sriram Krishna, Advocate Mr. Amarjeet, Advocate
For the Respondent/s	:	Mr. P. K. Verma, AAG 3 Mr. Sanjay Kumar Ghosarvey, AC to AAG 3

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 08-05-2024

The petitioner is concerned with the order of
blacklisting dated 30.03.2024 (Annexure P/10). Two contentions
are raised by the learned Counsel for the petitioner: (i) violation
of principles of natural justice insofar as the reply having not
been considered and, (ii) the order of blacklisting referring to



Rule 11 (क)(vii) of the Bihar Contract Registration Rules, 2007.

2. The learned AAG, on the other hand, submits that there can be alleged no violation of principles of natural justice since even though the show cause notice is stated to be received on 05.03.2024, the petitioner has filed the objection on 04.03.2024 itself. As far as the wrong quoting of provision is concerned, it is pointed out that Rule 11(क) (vi) of the Rules, 2007 would take in the defalcation of the petitioner.

3. The petitioner applied under an NIT and he was issued with a notice at Annexure P-7 holding that the document produced as Annexure P-11 was a fraudulent one. The notice was dated 23.02.2024 but however, as we see from Annexure P-9 it was dispatched only on 28.02.2024 and it was delivered to the petitioner on 05.03.2024. Admittedly, before the delivery itself the respondent was aware of the show cause notice and filed an objection at Annexure P-8. The only contention taken is that Annexure P-11 was a typing mistake committed by its employees.

4. Learned Counsel for the petitioner submits that knowing about such show cause notice being issued mechanically, the objection was filed. We are unable to comprehend the above contention since obviously the petitioner



has specifically referred to the defalcation noticed in Annexure P-11.

5. In the above circumstances, we do not think that there is any violation of principles of natural justice. Further, it is clear from the impugned order that the blacklisting was on account of producing a fraudulent document which is covered by Rule 11 (क)(vii). Though Rule 11 (क)(ix) is noticed in the impugned order, it is trite that quoting a wrong provision in the order will not vitiate the order itself.

6. We also looked at Annexure P-11 and it cannot be said that it is a mistake committed by the petitioner's employees. Annexure P-11 is an invoice issued to the petitioner on the purchase of a Water Tanker. The total cost of the Water Tanker as seen from it is only Rs.63800/-. However in the total indicated in words and figure it is "One lac sixty three thousand eight hundred rupees only" (Rs.163800/-) raising suspicion as to the genuineness of the document.

7. The contention raised in the reply to substantiate Annexure P-11 on the basis of a mistake committed by the employee cannot be countenanced. We hence do not find any reason to interfere with the order passed of blacklisting of four years, but however the petitioner would be entitled to file a



representation before the appropriate authority for reduction of the period of blacklisting, which will be considered on the mitigating circumstances pleaded; at the discretion of the authority.

8. The writ petition stands dismissed with the above observations.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	09. 05.2024
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