

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12018 of 2024

M/s Vaishnavi Hospital, Mayur Vihar Colony, Transport Nagar, P.S. - Agamkuan, District- Patna through its Partner namely Prince Kumar Tiwari, Male, aged about - 45 years, Son of Dhruvdeo Tiwari, Resident of Vaishnavi Hospital, Krishna Niketan School Road, Near Baadhsaahi Payeen, Jakariyapur, P.S.- Gopalpur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Planning and Development, Government of Bihar.
2. The Principal Secretary, Planning and Development, Government of Bihar.
3. The Director, Planning and Development Department, Government of Bihar.
4. The Special Secretary, Planning and Development Department, Government of Bihar.
5. The Additional Secretary, Planning and Development Department, Government of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Shivam, Advocate Ms. Vaishnavi Singh, Advocate
For the Respondent/s	:	Mr. P.K. Verma, AAG-3 Mr. Sanjay Kumar Ghosarvey, AC to AAG-3

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-10-2024

The only contention taken against the appellate order is that it is non-speaking. The petitioner admittedly was awarded with a contract as per the Notice Inviting Tender (NIT) at Annexure-P/1 for supply of man power to the health institutions of the State. The contract on 01.12.2022, as per Annexure-P/3, was for a one year period. Separate show-cause notice for



cancellation and blacklisting was issued and it eventually concluded with the cancellation of the contract and also blacklisting for two years.

2. The petitioner filed a writ petition against the cancellation as CWJC No. 8122 of 2023 wherein there was a direction given to issue a fresh show-cause mentioning the specific action to be taken, insofar as blacklisting and an inquiry to be held in presence of the petitioner. Admittedly, the same was done and Annexure-P/10 order was passed, which is fairly in detail. An appeal was taken which was disposed of by Annexure-P/12 peremptorily and without any consideration.

3. The only consideration in Annexure-P/12, as per the translated copy handed over to us across the Bar, is as follows:-

“No new evidence or record has been provided to the department as evidence along with the appeal representation or in the course of personal hearing, other than the facts/records provided earlier by the Chief Executive Officer of the agency. Departmental order no. 1685 dated 15.03.2024 is issued only after due review of the evidence/records provided earlier.”

4. The learned AAG attempted to support the order on the ground that Annexure-P/10 is a fairly detailed order. However, this would not absolve the appellate authority from



considering the factual aspects and entering a finding on the evidence already on record.

5. In the present case, as per the above extract, it has merely been recorded that no new evidence or record has been provided to the department and hence the order is upheld. The order hence is clearly non-speaking.

6. In the above circumstances, we set aside Annexure-P/12 for it being a non-speaking order and direct the appellate authority to restore the appeal to its files, issue notice to the petitioner, hear the petitioner and pass a speaking order.

7. With the above directions, the writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	07.10.2024
Transmission Date	

