

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14992 of 2023

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Surendra Kumar Son of Shiv Prasad, Resident of Village Pradhana, P.S.-
Konch, District - Gaya, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Works Department,
Government of Bihar, Patna.
2. The Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Engineer in Chief, Rural Works Department, Government of Bihar,
Patna.
4. The Chief Engineer-1, Rural Works Department, Government of Bihar,
Patna.
5. The Executive Engineer, Rural Works Department, Sherghati Work Division,
District - Gaya, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Advocate Mr. Prince Kumar Mishra, 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 ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 15-03-2024 The petitioner is aggrieved with the cancellation of his tender and the black-listing. The contention raised is that there is gross violation of principles of natural justice in issuing the order of cancellation and also the order of black-listing the petitioner for 10 years.

2. The learned Government Advocate, on the other hand, submits that there was a detailed consideration and the petitioner had failed to carry out the work and in such



circumstances, the cancellation was made and then the petitioner was black-listed.

3. As far as the cancellation is concerned, we see from the writ petition itself; as on 31.07.2023, a notice was issued, as is seen from Annexure-P/11. The notice only required appearance of the party for the purpose of executing a supplementary agreement. The notice itself was dispatched on 03.08.2023, as is evident from the postal seal found in Annexure-P/12 series at page 60 of the memorandum. The cancellation order at Annexure-P/14 was on 03.08.2023. In fact, the petitioner had expressed his willingness to execute the supplementary agreement by letter dated 05.08.2023. Only since the petitioner was asked to appear before the authority within 3 days, the petitioner was before the authority on 03.08.2023 when the cancellation was made without even a notice being issued to him. In such circumstances, we set aside the order of cancellation but, however, leaving liberty to the respondent-authority to further consider it after a proper notice is issued. We make it clear that the notice shall be issued within a week and there shall be no claim for resumption of work by the petitioner till consideration is made.

4. Insofar as the black-listing is concerned, it also



has to go since we have set aside the cancellation. We pertinently notice that in the case of black-listing also there was no notice issued. The black-listing order was passed on 27.11.2023. By a supplementary affidavit the petitioner has produced a notice issued threatening black-listing, which is at Annexure-P/23 dated 07.11.2023. The same was dispatched, as is seen from the postal cover at Annexure-P/24 on 29.01.2024. Hence, even before the notice was dispatched, the order was issued.

5. In such circumstances, we set aside the black-listing order also, which is produced along with I.A. No.01 of 2023 dated 27.11.2023.

6. We make it clear that both the orders have been set aside only on the ground of violation of principles of natural justice and we have not considered the merits of the matter. The writ petition is allowed reserving liberty to the respondent to proceed afresh in accordance with law.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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