

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1419 of 2024

Kameshwar Kumar Singh @ Kameshwar Singh Son of Raghuveer Sharan Singh Resident of Jila School Ke Pichhe, M. P. Bagh, Arrah, P.S.- Ara Nagar, District- Bhojpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Director General, Military Police, Bihar, Patna.
3. The Additional Director General of Police, Police Headquarter, Bihar, Patna.
4. The Inspector General of Police, Police headquarter, Bihar, Patna.
5. The Inspector General, Military Police, Bihar, Patna.
6. The Deputy Inspector General, Bihar Military Police, Central Division, Fulwari Sharif, Patna.
7. The Commandant, Mounted Military Police, Bihar, Ara.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Praveen Kumar, Advocate
For the Respondent/s	:	Mr. Standing Counsel 16

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 26-06-2024

Heard learned Advocate for the petitioner and the
Government Advocate for the State.

2. The petitioner is aggrieved by the order of blacklisting dated 24.08.2018 issued by the respondent no. 6, the copy of which is produced as Annexure-10 to the writ petition. The petitioner also sought a direction upon the respondents to pay his due amounts with interest.

3. In response to the Advertisement Information No.



1/2018-19 issued by the Commandant, Mounted Military Police, Bihar, Ara for supply of fodder grains, green grass, straw, plastic rope, horse shou and hook, the petitioner filed his quotations for three items, namely, ground oats, ground barley and rock salt. On being found eligible, the petitioner was selected for supply of the items noted hereinabove and accordingly, an agreement was executed, the copy of which is marked as Annexure-P/5.

4. The petitioner supplied the items for some period, however, due to sudden unpredictable enhancement of the price of ground oats, the petitioner requested to the respondents to revise the rate of the items for further supply. Request has also been made to clear all his earlier dues.

5. On account of the sudden stoppage of the supply, the petitioner was served with the notice for supply and finally the petitioner's firm has been blacklisted vide order dated 24.08.2018, which is put to challenge in the present writ petition.

6. The grounds for challenge the impugned order, set-forth before this Court is that the petitioner has neither been served with any show-cause notice nor any opportunity of hearing has been afforded to him before inflicting the order of blacklisting. Learned Advocate for the petitioner also contended



that no plausible reason for blacklisting has been assigned, inasmuch as the impugned order of blacklisting is *ad infinitum*. On all these score, the learned Advocate argued that the impugned order is not sustainable and fit to be quashed.

7. The learned Government Advocate, per contra, submitted that the petitioner all on a sudden stopped the supply of items and thus violated the terms and conditions of the agreement. Despite the repeated requests made by the respondents, the supply of the items in question had not been restored, which compelled the respondents to pass the order of blacklisting in contemplation with the terms of the agreement.

8. This Court finds substance in the submission of the writ petitioner. Apart from the impugned order of blacklisting for an indefinite period, contrary to the dictum of the Hon'ble Apex Court in the case of ***Kulja Industries Limited Vs. Chief General Manager, Western Telecom Project Bharat Sanchar Nigam Limited and Others*** reported in (2014) 14 SCC 731, the same is cryptic and non speaking. The impugned order, *prima facie*, suggests that the petitioner has neither been served with any show-cause notice before passing the impugned order nor he has been allowed any opportunity of hearing.

9. The authority exercising power of blacklisting or



debarring a contractor exercises quasi judicial powers and, therefore, it is incumbent upon him to act fairly after following the due procedure and in compliance with the principle of natural justice.

10. Having heard the rival submission of the learned Counsel for the respective parties, on the reasons noted hereinabove, this Court is constrained to set-aside the impugned order of blacklisting Annexure-10, and remit the matter back to the concerned respondent. The respondent authority is further directed to issue a fresh show-cause notice, preferably within a period of three weeks. The show-cause notice must contain the specific charges necessitating the initiation of an action of blacklisting.

11. In response to the show-cause notice, the petitioner shall also be obliged to file his explanation/reply within a further period of two weeks. In case of a request made, the petitioner shall also be allowed personal hearing and after hearing the parties, the concerned respondent shall pass final orders.

12. Suffice it to say that while considering the case of the petitioner for blacklisting, the respondent authority shall also be obliged to consider other claims of the petitioner, as prayed



for in the writ petition.

13. The writ petition stands allowed to the extent indicated hereinabove.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

shivank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.06.2024
Transmission Date	NA

