

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.734 of 2025

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M/S Bolbum Construction, through its Proprietor Sikandar Singh (male) aged about 61 years, S/o Parmeshwar Prasad Singh, Resident of Ward No. 29, Dharmganj, P.S.- K. Hat, District- Kishanganj.

... .. Petitioner.

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Government of Bihar, Baily Road, Vishweshwraiya Bhawan, Patna.
2. The Engineer in Chief-cum-Special Secretary, Public Health Engineering Department, Government of Bihar, Baily Road, Vishweshwraiya Bhawan, Patna.
3. The Chief Engineer (Rupankan), Public Health Engineering Department, Government of Bihar, Baily Road, Vishweshwraiya Bhawan, Patna.
4. The Executive Engineer, Public Health Division- Kishanganj, Public Health Engineering Department, Government of Bihar.

... .. Respondents.

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Appearance :

For the Petitioner	:	Mr. P.N. Shahi, Senior Advocate. Mr. Ravi Kumar, Advocate.
For the State	:	Mr. S. Raza Ahmad, AAG-5. Mr. Alok Ranjan, AC to AAG-5.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 30-01-2025

In the instant writ petition, petitioner has prayed for the following relief(s):

“(i) To issue an appropriate writ/order/ direction, in the nature of mandamus for quashing the Office Order No.103 dated 31.12.2024 read with Memo No.2775/Kishanganj dated 31.12.2024 issued under the signature of the Respondent No.4 i.e. Executive Engineer,



Public Health Division-Kishanganj, Public Health Engineering Department, Government of Bihar whereby and whereunder the petitioner has been debarred from participating in future tenders, without considering the fact that there is no provision to debar the contractors in Bihar Contractors Registration Rule, 2007, which is cleat cut violation of Law.

- (ii) To allow the petitioner to participate in the tenders to which the petitioner has already been submitted his bid or in the future tenders.
- (iii) To restrain the respondents from giving effect to the impugned debar order from the date of its issuance i.e. 31.12.2024.
- (iv) To set-aside the debar order from the date of it's issuance i.e. 31.12.2024 as such the said debar letter is illegal, discriminatory, and arbitrary and passed without having any authority of law.
- (v) For grant of other reliefs to which the petitioner has been found to be entitled in the facts and circumstances of the case.”

2. Impugned order is dated 31.12.2024 by which petitioner has been debarred for future tender.

3. Reading of the impugned order dated 31.12.2024, it is crystal clear that the petitioner has not been provided an



opportunity of hearing. If any adverse order is passed against a person and it has civil consequences in that event it is mandatory that such a person shall be heard in the matter. Recently, Constitution Bench of the Hon'ble Supreme Court in the case of **Central Organisation for Railway Electrification Versus ECI SPIC SMO MCML (JV) A Joint Venture Company**, reported in **2024 SCC OnLine SC 3219** in paragraphs-76 to 78 elaborately considered the issue relating to principle of natural justice and it is mandatory. On the same issue, Hon'ble Supreme Court in the case of **Raghunath Thakur Versus State of Bihar and Others, (1989) 1 SCC 229**, in para-4, it is held as under:

“4. Indisputably, no notice had been given to the appellant of the proposal of blacklisting the appellant. It was contended on behalf of the State Government that there was no requirement in the rule of giving any prior notice before blacklisting any person. Insofar as the contention that there is no requirement specifically of giving any notice is concerned, the respondent is right. But it is an implied principle of the rule of law that any order having civil consequence should be passed only after following the principles of natural justice.



It has to be realised that blacklisting any person in respect of business ventures has civil consequence for the future business of the person concerned in any event. Even if the rules do not express so, it is an elementary principle of natural justice that parties affected by any order should have right of being heard and making representations against the order. In that view of the matter, the last portion of the order insofar as it directs blacklisting of the appellant in respect of future contracts, cannot be sustained in law. In the premises, that portion of the order directing that the appellant be placed in the blacklist in respect of future contracts under the Collector is set aside. So far as the cancellation of the bid of the appellant is concerned, that is not affected. This order will, however, not prevent the State Government or the appropriate authorities from taking any future steps for blacklisting the appellant if the Government is so entitled to do in accordance with law i.e. after giving the appellant due notice and an opportunity of making representation. After hearing the appellant, the State Government will be at liberty to pass any order in accordance with law indicating the reasons therefor.



We, however, make it quite clear that we are not expressing any opinion on the correctness of otherwise of the allegations made against the appellant. The appeal is thus disposed of.”

In yet another case Viz., **Erusian Equipment & Chemicals Ltd. Versus State of West Bengal and Another, (1975) 1 SCC 70**, in para-12, it is held as under:

“12. Under Article 298 of the Constitution the executive power of the Union and the State shall extend to the carrying on of any trade and to the acquisition, holding and disposal of property and the making of contracts for any purpose. The State can carry on executive function by making a law or without making a law. The exercise of such powers and functions in trade by the State is subject to Part III of the Constitution. Article 14 speaks of equality before the law and equal protection of the laws. Equality of opportunity should apply to matters of public contracts. The State has the right to trade. The State has there the duty to observe equality. An ordinary individual can choose not to deal with any person. The Government cannot choose to exclude persons by discrimination. The order of blacklisting has the effect of depriving a person of equality of opportunity in the matter of public contract. A person who is on the approved list is unable to



enter into advantageous relations with the Government because of the order of blacklisting. A person who has been dealing with the Government in the matter of sale and purchase of materials has a legitimate interest or expectation. When the State acts to the prejudice of a person it has to be supported by legality.”

4. Petitioner’s case is squarely covered by the aforementioned decision on the point of principle of natural justice is warranted before issuance of impugned order.

5. Accordingly, the petitioner has made out a case so as to interfere with the impugned order dated 31.12.2024 and it is set aside, reserving liberty to the concerned authority to proceed further in accordance with law within a period of four months from the date of receipt of this order.

6. Accordingly, instant writ petition stands allowed.

7. At this stage, learned counsel for the petitioner submitted that he has filed I.A. No.1 of 2025 insofar as to challenge the Office Order No.98/Kishanganj dated 31.12.2024 (Annexure-P/1 to I.A. No.1 of 2025). It is also without providing an opportunity of hearing to the petitioner. Accordingly, Office Order No.98/Kishanganj dated 31.12.2024 (Annexure-P/1 to I.A. No.1 of 2025) stands set aside reserving



liberty to the concerned authority to proceed in accordance with law within a period of four months from the date of receipt of this order.

8. I.A. No.1 of 2025 stands disposed of.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2025.
Transmission Date	NA

