

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.66 of 2025

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M/s Sai Construction through its partner namely Mr. Ravindra Kumar, aged about 46 Yrs. (Male), S/o- binda Prasad, R/o- Village- Mirzapur, P.S. Gondapur, District- Nawada, PIN- 805110, Bihar, Office Address- Shubham Kunj, New Mithapur, Old Bus Stand, Patna, Bihar- 800001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Building Construction Department, Government of Bihar, Visheshwaraiya Bhawan, Bailey Road, Patna.
2. The Secretary, Building Construction Department, Government of Bihar, Visheshwaraiya Bhawan, Bailey Road, Patna.
3. The District Magistrate, Saran at Chapra.
4. The Engineer-in-Chief-Cum- Additional Commissioner-Cum-Special Secretary, Building Construction Department, Government of Bihar, Patna.
5. The Chief Engineer (North), Building Construction Department, Government of Bihar, Patna.
6. The Superintending Engineer, Building Construction Department, Building Circle- Chapra.
7. The Executive Engineer, Building Construction Department, Building Division, Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vinit Kumar, Advocate Mr. Vikas Kumar, Advocate Ms. Anjali Kumari, Advocate
For the Respondent/s	:	Mr. Vikas Kumar, SC-11

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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 : 06-03-2025

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

*"(i) For Quashing of letter
contained in Memo No. 247 dated
17.02.2023 issued by the Executive
Engineer, Building Construction*



Department, Building Division, Chapra whereby and whereunder petitioner has been debarred for participating in future tender till completion of work as construction of work in question was slow.

(ii) For any other relief/reliefs on the facts and circumstances of the present case for which petitioner is entitled too."

2. Impugned decision of the seventh respondent- Executive Engineer, Building Construction Department, Building Division, Chapra dated 17.02.2023 has civil consequences on the petitioner including taking away livelihood. In such circumstances, invariably show cause notice and petitioner is required to be heard in the matter. Executive Engineer, Building Construction Department, Building Division, Chapra has failed to issue show cause notice and seek explanation and, thereafter, he should have proceeded to pass impugned decision dated 17.02.2023. Time and again Courts have held that any authority's decision has civil consequences and affects right of a person in such circumstances invariably show cause notice/hearing is mandatory. In a recent decision in the case of **State Bank of India & Ors. vs. Rajesh Agarwal & Ors. (Civil Appeal Nos. 7300 of 2022 & other analogous cases)** decided on 27.03.2023 reported in **(2023) 6 SCC 1 (Paras 29 to 81)**, Hon'ble Supreme Court had elaborately



discussed insofar as providing opportunity of hearing. Taking note of the aforementioned principle, the petitioner has made out a case.

3. At this stage, learned counsel for the respondent submitted that the present writ petition has been filed only in the month of December, 2024, thus, there is a delay. *Prima facie*, lapse is not forthcoming for the reasons that petitioner has obeyed portion of the order dated 17.02.2023 which is impugned in the present case to the extent that he is undertaking remaining work.

4. In the light of these facts and circumstances, the petitioner has made out a case. The impugned decision dated 17.02.2023 is treated as show cause notice or any further fresh show cause notice may be issued by Executive Engineer, Building Construction Department, Building Division, Chapra within a period of two weeks from the date of receipt of this order. The petitioner is hereby directed to furnish his explanation after three weeks from the date of receipt of this order to the show cause notice dated 17.02.2023. The impugned decision dated 17.02.2023 has been treated as show cause notice to the petitioner, he must file his explanation/reply. In the event of issuing fresh show cause notice by the Executive Engineer, Building Construction Department, Building Division, Chapra, petitioner is also permitted to file explanation/reply within a period of three weeks



from the date of receipt of show cause notice. The above exercise shall be completed by the Executive Engineer, Building Construction Department, Building Division, Chapra while taking note of the aforementioned explanation/reply to be submitted by the petitioner. Executive Engineer, Building Construction Department, Building Division, Chapra is hereby directed to pass a detailed speaking order after due consideration of each of the contention to be raised in his explanation/reply to the show cause notice within a period of three months.

5. With the aforesaid observations, the present writ petition stands allowed in part.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

