

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6309 of 2025

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Rakesh Kumar Singh S/o Rajeshwar Singh, R/o- Singh Mansion,
Gardanibagh, Mahadev Puri, Aam Bagicha, Dist.- Patna, P.S.- Gardanibagh,
P.O.- G.P.O. Patna, Pin-800001, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Building Constructions Department, Government of Bihar, Vishwashriya Bhawan, Patna-800001, Bihar.
2. The Executive Engineer, Gardanibagh Building Division, Bailey Road, Patna-800001, Bihar.
3. The Joint Secretary, Building Constructions Department, Government of Bihar, Vishwashriya Bhawan, Patna-800001, Bihar.
4. The Engineer in Chief, Building Constructions Department, Government of Bihar, Vishwashriya Bhawan, Patna-800001, Bihar.
5. The Chief Engineer-Patna, Building Constructions Department, Government of Bihar, Vishwashriya Bhawan, Patna-800001, Bihar.
6. The Assistant Engineer, Gardanibagh Building Division, Bailey Road, Patna-800001, Bihar.
7. The Junior Engineer, Gardanibagh Building Division, Bailey Road, Patna-800001, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhinav Kumar Singh, Advocate Mr. Ankur Apurv Singh, Advocate
For the Respondent/s	:	Mr. Sajid Salim Khan, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 07-05-2026

Heard learned counsel for the parties.

2. The present writ application has been filed for the



following reliefs:

“i. To issue Writ in the nature of Mandamus for directing the Respondents to not to arbitrary exercise their power.

ii. To issue Writ in the nature of Mandamus for directing the Respondent Authorities to not to interfere in matters Sub-Judice before the Competent Court at Patna District and Sessions Court unless specific direction/order passed to act upon.

iii. For issuance of the Writ in the nature of Certiorari for Quashing of the order dt.- 09/12/2024 vide letter no.- 3016 Passed by Respondent No.- 02 without any direction of Respondent No.-01 and other subsequent arbitrary orders passed by any respondents.

iv. For issuance of Writ in the nature of Mandamus for directing the Respondent Authorities to pay Damages to the petitioner against illegal Debar causing irreparable monetary loss and mental and physical agony as the same has been done without issuing any show cause notice to the petitioner.

v. For any other relief /reliefs for which petitioner is entitled for.”

3. The present writ application arises out of the order of debarment passed against the petitioner, a registered contractor bearing Registration No. 18260982. The petitioner was implicated in Gandhi Maidan P.S. Case No. 726 of 2024, pursuant whereto the Senior Superintendent of Police, Patna cancelled the character certificate of the petitioner bearing No. BCHC/2024/1111991 vide Letter No. 11562 dated 09.12.2024. On the basis of the said communication, respondent no. 2, on the very same day, issued Letter No. 3016 dated 09.12.2024



debarring the petitioner from participation in tenders.

4. Learned counsel for the petitioner submits that solely on the basis of cancellation of character certificate, respondent No. 2 proceeded to pass the impugned order of debarment on the very same day without issuance of any show cause notice or affording any opportunity of hearing to the petitioner, thereby violating the principles of natural justice.

5. Learned counsel further submits that mere pendency of a criminal case cannot be a ground for debarring the petitioner from participating in tenders, particularly in absence of any adjudication by a competent court. Learned counsel also submits that the impugned order does not specify the period of debarment and, thus, effectively operates for an indefinite duration, rendering the same arbitrary and unsustainable in law.

6. Per contra, learned counsel for the respondents submits that the petitioner had deliberately concealed the factum of lodging of F.I.R. dated 06.12.2024. It is further submitted that submission of a valid character certificate is an essential condition of the tender process to ensure that persons having criminal antecedents are not awarded government contracts. It is submitted that the character certificate of the petitioner was



cancelled by the competent authority vide order dated 08.12.2024, which has neither been challenged nor the concerned authority has been impleaded, and, therefore, the consequential action of debarment cannot be faulted.

7. The limited issue which arises for consideration before this Court is as to whether the respondent authorities could have legally imposed a debarment upon the petitioner without specifying any definite period for which such debarment would remain operative.

8. From the materials brought on record, it appears that the impugned order of debarment has been passed immediately upon cancellation of the character certificate of the petitioner by the police authorities. However, there is nothing on record to indicate that any independent proceeding was initiated by the respondent authorities prior to passing of the impugned order or that the petitioner was ever put on notice regarding the proposed action of debarment. Admittedly, no show cause notice was issued to the petitioner and no opportunity of hearing was afforded to him before the impugned action was taken.

9. It is trite law that an order of blacklisting or debarment carries serious civil consequences inasmuch as it deprives him of the opportunity to participate in public contracts



and affects his business prospects and reputation. Such an order, therefore, cannot be passed in a mechanical manner or merely on the basis of a communication issued by another authority. Even where the authority possesses the power to blacklist or debar a contractor, such power has necessarily to be exercised fairly, reasonably and in consonance with the principles of natural justice.

10. Reference in this regard may also be made to the judgment of the Hon'ble Supreme Court in ***Erusian Equipment & Chemicals Ltd. v. State of West Bengal & Anr.*** reported in ***(1975) 1 SCC 70***, wherein it has been held that blacklisting has the effect of preventing a person from entering into lawful relationship with the Government and, therefore, fair play in action requires observance of natural justice before passing such order. The relevant part of the said order reads as follows:

“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.

20. Blacklisting has the effect of preventing a person from the privilege and advantage of entering into lawful relationship with the Government for purposes of gains. The fact that a disability is created by the order of blacklisting indicates that the relevant authority is to have an objective satisfaction. Fundamentals of fair play require that the person concerned should be given an opportunity to represent his case before he is put on the blacklist.”

11. The Hon’ble Supreme Court in ***Gorkha Security Services v. Government of NCT of Delhi & Ors.*** reported in ***(2014) 9 SCC 105***, has categorically held that before passing an order of blacklisting, the affected party must be specifically put to notice not only of the allegations levelled against him but also



of the proposed action of blacklisting/debarment so as to enable him to effectively respond to the same. Absence of such notice would vitiate the action itself. The relevant part of the said order reads as follows:

“Necessity of serving show-cause notice as a requisite of the principles of natural justice

16. It is a common case of the parties that the blacklisting has to be preceded by a show-cause notice. Law in this regard is firmly grounded and does not even demand much amplification. The necessity of compliance with the principles of natural justice by giving the opportunity to the person against whom action of blacklisting is sought to be taken has a valid and solid rationale behind it. With blacklisting, many civil and/or evil consequences follow. It is described as “civil death” of a person who is foisted with the order of blacklisting. Such an order is stigmatic in nature and debars such a person from participating in government tenders which means precluding him from the award of government contracts.

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Contents of the show-cause notice

21. The central issue, however, pertains to the requirement of stating the action which is proposed to be taken. The fundamental purpose behind the serving of show-cause notice is to make the noticee understand the precise case set up against him which he has to meet. This would require the statement of imputations detailing out the alleged breaches and defaults he has committed, so that he gets an opportunity to rebut the same. Another requirement, according to us, is the nature of action which is proposed to be taken for such a breach. That should also be stated so that the noticee is able to point out that proposed action is not warranted in the given case, even if the defaults/breaches complained of are not satisfactorily explained. When it comes to blacklisting, this requirement becomes all the more



imperative, having regard to the fact that it is harshest possible action.

22. The High Court has simply stated that the purpose of show-cause notice is primarily to enable the noticee to meet the grounds on which the action is proposed against him. No doubt, the High Court is justified to this extent. However, it is equally important to mention as to what would be the consequence if the noticee does not satisfactorily meet the grounds on which an action is proposed. To put it otherwise, we are of the opinion that in order to fulfil the requirements of principles of natural justice, a show-cause notice should meet the following two requirements viz:

(i) The material/grounds to be stated which according to the department necessitates an action;

(ii) Particular penalty/action which is proposed to be taken. It is this second requirement which the High Court has failed to omit.

We may hasten to add that even if it is not specifically mentioned in the show-cause notice but it can clearly and safely be discerned from the reading thereof, that would be sufficient to meet this requirement.”

12. This Court further finds that the impugned order does not prescribe any fixed duration for which the petitioner shall remain debarred. An order of debarment, which does not indicate any specific period, effectively results in exclusion of the contractor for an indefinite period.

13. The Hon'ble Supreme Court in ***Kulja Industries Ltd. v. Western Telecom Project BSNL & Ors.*** reported in ***(2014) 14 SCC 731***, has held that blacklisting cannot be



permanent or for an indefinite duration and that the period of debarment must satisfy the requirement of proportionality. The authority while imposing such penalty is required to apply its mind to the nature of allegations, gravity of misconduct and proportionality of punishment. The relevant part of the said order reads as follows:

“17. That apart, the power to blacklist a contractor whether the contract be for supply of material or equipment or for the execution of any other work whatsoever is in our opinion inherent in the party allotting the contract. There is no need for any such power being specifically conferred by statute or reserved by contractor. That is because “blacklisting” simply signifies a business decision by which the party affected by the breach decides not to enter into any contractual relationship with the party committing the breach. Between two private parties the right to take any such decision is absolute and untrammelled by any constraints whatsoever. The freedom to contract or not to contract is unqualified in the case of private parties. But any such decision is subject to judicial review when the same is taken by the State or any of its instrumentalities. This implies that any such decision will be open to scrutiny not only on the touchstone of the principles of natural justice but also on the doctrine of proportionality. A fair hearing to the party being blacklisted thus becomes an essential precondition for a proper exercise of the power and a valid order of blacklisting made pursuant thereto. The order itself being reasonable, fair and proportionate to the gravity of the offence is similarly examinable by a writ court.

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20. It is also well settled that even though the right of the writ petitioner is in the nature of a contractual right, the manner, the method and the motive behind the decision of the authority whether or not to enter into a contract is subject to judicial review on the



touchstone of fairness, relevance, natural justice, non-discrimination, equality and proportionality. All these considerations that go to determine whether the action is sustainable in law have been sanctified by judicial pronouncements of this Court and are of seminal importance in a system that is committed to the rule of law. We do not consider it necessary to burden this judgment by a copious reference to the decisions on the subject. ...

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25. Suffice it to say that “debarment” is recognised and often used as an effective method for disciplining deviant suppliers/contractors who may have committed acts of omission and commission or frauds including misrepresentations, falsification of records and other breaches of the regulations under which such contracts were allotted. What is notable is that the “debarment” is never permanent and the period of debarment would invariably depend upon the nature of the offence committed by the erring contractor.”

14. Similar view has also been taken by the Hon’ble Supreme Court in ***Vetindia Pharmaceuticals Limited v. State of Uttar Pradesh & Anr.*** reported in ***(2021)1 SCC 804***, wherein it has been reiterated that an order of blacklisting without adherence to principles of natural justice cannot be sustained. The relevant part of the said order reads as follow:

“12. In view of the aforesaid conclusion, there may have been no need to go into the question of the duration of the blacklisting, but for the arguments addressed before us. An order of blacklisting operates to the prejudice of a commercial person not only in praesenti but also puts a taint which attaches far beyond and may well spell the death knell of the



organisation/institution for all times to come described as a civil death. The repercussions on the appellant were clearly spelt out by it in the representations as also in the writ petition, including the consequences under the Rajasthan tender, where it stood debarred expressly because of the present impugned order. The possibility always remains that if a proper show-cause notice had been given and the reply furnished would have been considered in accordance with law, even if the respondents decided to blacklist the appellant, entirely different considerations may have prevailed in their minds especially with regard to the duration.”

15. In the present case, the impugned order neither reflects any consideration with regard to proportionality nor discloses any independent satisfaction recorded by the respondent authority. The order appears to have been passed solely on account of cancellation of the character certificate and that too without granting any opportunity to the petitioner to explain his stand. Such action, in the considered opinion of this Court, cannot withstand judicial scrutiny.

16. Accordingly, the impugned order of debarment dated 09.12.2024 is hereby quashed and set aside. The matter is remitted back to the concerned respondent authority to pass a reasoned and speaking order in accordance with law, specially specifying the period of debarment, if so required.



17. Accordingly, the present writ application stands allowed.

18. Pending application(s), if any, shall stand disposed of.

(Sudhir Singh, J)

(Shailendra Singh, J)

Anushka/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	13.05.2026
Transmission Date	

