IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10427 of 2026

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Rishav Utilities Services Pvt. Ltd. having its registered office at Lane No. 1, behind Vijay Petrol Pump, Maharana Pratap Nagar, Bhikhanpura, Ram Dayalu, P.S. Sadar, Muzaffarpur, 842001 through its Managing Director, Neeraj Kumar, aged about 43 years, Malc, Son of Sri Sunil Sanjeev, resident of Lane No. 1, behind Vijay Petrol Pump, Maharana Pratap Nagar, Bhikhanpura, Ram Dayalu, P.S. Sadar, District- Muzaffarpur, 842001.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Engineer in Chief, Rural Works Department, Government of Bihar, Patna.
3. The Engineer in Chief cum Additional Commissioner cum Special Secretary, Rural Works Department, Government of Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sriram Krishna, Advocate Mr. Shashank Shekhar Kunwar, Advocate Mr Abhinav Prashar, Advocate
For the State	:	Mr. S.D. Sanjay, Advocate General Mr. Mohit Agarwal, AC to AG

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

2 22-07-2026 Heard learned counsel for the parties.

2. Following is the relief sought for in the present writ application:-

> *"(i) To Issue a writ of certiorari or any other appropriate writ, order or direction, quashing the Impugned Order dated 08.05.2026 as contained in Memo No. 5932 (Annexure P/23) passed by the Respondent No. 2 (Engineer-in-Chief) blacklisting the petitioner under Clause 11 of the Bihar*

Contractors Registration Rules, 2007.

(ii) To Issue a writ of mandamus or any other appropriate writ, order or direction, restraining the respondents from giving any effect to the said Impugned Order dated 08.05.2026 during the pendency of the present writ application.

(iii) To direct the respondents to supply a copy of the alleged forged payment certificate, the proof of its uploading, and all other documents relied upon by them, to enable the petitioner to defend itself effectively.

(iv) To declare that the action of the respondents is arbitrary, malafide, in violation of the principles of natural justice, and in defiance of the judgment dated 24.03.2026 passed in CWJC No. 571 of 2026.

(v) Award the costs of the present litigation to the petitioner.

(vi) Pass any other order or relief as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

3. The present dispute arises out of two tenders issued by the Rural Works Department, namely NIT No. RRSMP-04/2025-26 dated 27.05.2025 and NIT No. RRSMP-01/2025-26 dated 11.06.2025, in respect whereof the petitioner submitted its bids under Tender ID Nos. 141673 and 142021. The petitioner was declared technically qualified in both tenders. In Tender ID No. 141673, the petitioner was declared the lowest (L-1) bidder, whereafter the Departmental Tender

Committee resolved to award the work in its favour and directed issuance of the work order. In Tender ID No. 142021 also, after considering the petitioner's response to an objection raised by another bidder, the financial bid was opened and the petitioner was declared the lowest (L-1) bidder.

4. Subsequently, the Departmental Tender Committee, in its meeting held on 15.09.2025, resolved to cancel the work awarded to the petitioner, forfeit its earnest money deposit, recommend its blacklisting, and re-tender the works on the allegation that the petitioner had submitted false payment certificates in support of its bids. A show cause notice dated 13.11.2025 was thereafter issued proposing blacklisting of the petitioner. After considering the petitioner's reply, the Engineer-in-Chief passed an order dated 10.12.2025 blacklisting the petitioner for a period of two years.

5. Aggrieved thereby, the petitioner approached this Court by filing CWJC No. 571 of 2026. By judgment dated 24.03.2026, this Court set aside the blacklisting order dated 10.12.2025 on the ground that the document relied upon against the petitioner had not been supplied and that adequate opportunity of hearing had not been afforded. The matter was remitted to the competent authority for passing a fresh order

after granting due opportunity of hearing.

6. Pursuant to the remand, the petitioner appeared before the Engineer-in-Chief on 08.05.2026 and submitted a detailed written reply. On the same date, the Engineer-in-Chief passed the impugned order dated 08.05.2026 again blacklisting the petitioner under the Bihar Contractors Registration Rules, 2007 on the allegation of submission of forged/fake payment certificates in the aforesaid tender processes.

7. Learned counsel for the petitioner submits that the petitioner has been blacklisted for an indefinite period, which is *ex facie* illegal and contrary to the settled legal position that an order of blacklisting must necessarily specify a definite period and cannot operate perpetually. It is further submitted that, despite the remand order passed by this Court in CWJC No. 571 of 2026, the respondents again failed to supply the alleged forged payment certificate forming the basis of the action, thereby repeating the very defect on account of which the earlier order had been set aside.

8. *Per contra*, learned counsel appearing for the respondents supports the impugned order and submits that, pursuant to the remand order passed by this Court, the petitioner was afforded adequate opportunity of hearing, including

personal hearing, before the competent authority. It is submitted that after considering the materials available on record and the petitioner's reply, the competent authority found that the petitioner had submitted false/fake payment certificates during the tender process, thereby attracting the provisions of the Bihar Contractors Registration Rules, 2007. It is submitted that the impugned order has been passed in accordance with law and does not warrant interference in exercise of the writ jurisdiction under Article 226 of the Constitution of India.

9. The limited issue which arises for consideration before this Court is as to whether the impugned order dated 08.05.2026, insofar as it blacklists the petitioner for an indefinite period, is legally sustainable.

10. Upon perusal of the impugned order, it appears that the petitioner has been visited with the penalty of blacklisting. A further reading of the order indicates that the blacklisting has been imposed for an indefinite period. It is well settled that an order of blacklisting has serious civil consequences affecting the fundamental right of a person to carry on trade or business under Article 19(1)(g) of the Constitution and, therefore, such an order must satisfy the test of fairness, reasonableness and proportionality.

11. The Hon'ble Supreme Court in ***Kulja Industries Ltd. v. Chief General Manager, W.T. Project, BSNL***, reported in ***(2014) 14 SCC 731***, has held that while the power to blacklist is inherent in the State, the period of blacklisting cannot be arbitrary or perpetual and the punishment must be proportionate to the nature of the misconduct. 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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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."*

12. Blacklisting for an indefinite period is, therefore,

legally unsustainable. In view of the aforesaid settled position of law, the order dated 08.05.2026 (Annexure-P/23) cannot be sustained and is, accordingly, set aside.

13. The matter is remitted to the competent authority for fresh consideration. The authority shall afford the petitioner an effective opportunity of personal hearing and, if any documents sought by the petitioner are considered necessary for an effective defence, the same shall be furnished in accordance with law. The petitioner shall be at liberty to raise all permissible grounds before the authority. Thereafter, the competent authority shall pass a reasoned and speaking order, strictly in accordance with law.

14. With the aforesaid observations and directions, the writ application stands disposed of.

15. Pending interlocutory application(s), if any, shall also stand disposed of.

(Sudhir Singh, ACJ)

(Rajesh Kumar Verma, J)

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