IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13129 of 2026

CNR No. BRHC010818152026

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Dharmendra Kumar Son of Late Jairam Sharma, Resident of Village - Khudauri, P.S. Hulasganj, District- Jehanabad, Bihar.

... ... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Minor Irrigation Department, Government of Bihar, Patna, Patna.
3. The Engineer-In-Chief, Minor Irrigation Department, Government of Bihar, Patna, Patna.
4. The Chief Engineer, Minor Irrigation Department, Government of Bihar, Patna.
5. The Chief Engineer (Planning and Monitoring and Geology), Minor Irrigation Department, Government of Bihar, Patna.
6. The Superintending Engineer (Headquarters) Monitoring, Minor Irrigation Department, Government of Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan, Advocate Mr. Shubham Prakash, Advocate
For the Respondent/s	:	Mr. S.D. Sanjay, Advocate General Dr. Vijay Chandra Maurya, AAG-2 Mr. Situ Sharma, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

CAV JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-11-2026

This writ petition has been filed by the petitioner with the following prayers:

"That this is an application on behalf of the petitioner above named seeking issuance of

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appropriate writ, rule or direction for;

(i) Quashing of the non speaking and unreasoned order bearing Memo No. 4967 dated 28.07.20226 (Annexure P/15) corresponding to Appeal No. 62/2026 passed by the Secretary, Minor Water Resources Department whereby, the appeal filed by the petitioner against the order of blacklisting for a period of 10 years has been rejected without considering any of the grounds taken in the Memo of Appeal; and

(ii) Restraining the respondents from taking any coercive action by giving effect to the order bearing Memo No. 4967 dated 28.07.2026 (Annexure P/15) corresponding to the Appeal No. 62 of 2026 during the pendency of the present writ application and/or the without the leave of this Hon'ble Court."

2. The facts which are required to be noted for the purpose of this judgment and also highlighted by the Mr. Prabhat Ranjan, learned counsel for the petitioner are that an ex parte order was passed by the In-charge, Chief Engineer, Minor Irrigation Department dated 14.03.2023, whereby the petitioner was black listed for a period of ten years. The order dated 14.03.2023 became the subject matter of a writ petition being C.W.J.C. no. 4661 of 2023 which writ petition was disposed of by this Court on 03.05.2023, granting liberty to the respondents to proceed in accordance with law after giving due opportunity of hearing to the petitioner by taking note of the judgment of the Supreme Court in ***UMC Technologies Pvt. Ltd. Vrs. Food Corporation of India and Anr.,*** reported in ***2021(2) SCC 551***

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and later decision in the case of ***Isolators and Isolators through its Proprietor Mrs. Sandhya Mishra Vs. Madhya Pradesh Madhya Kshetra Vidyut Vitran Co. Ltd. and Anr***., reported in ***2023 LiveLaw (SC) 330 (Para-34)***.

3. The respondents accordingly issued a fresh show cause notice dated 09.05.2025 requiring the petitioner to submit reply within 15 days as to why petitioner be not blacklisted in terms of the relevant provisions of Bihar Contractors Registration Rules, 2007. According to Mr. Ranjan the petitioner challenged the above show cause notice in C.W.J.C. No. 10828 of 2025. He also stated that the petitioner had also filed M.J.C. No. 2012 of 2025 on 16.06.2025 seeking initiation of contempt proceedings against the respondents for violating the order dated 03.05.2023. He submited that during the pendency of C.W.J.C. No. 10828 of 2025, the Registering Authority vide letter dated 07.08.2025 decided to proceed with the adjudication of show cause notice and granted a last opportunity to the peititoner to submit a reply to the same. The petitioner accordingly submitted a reply/representation/objection dated 18.08.2025. It was the submission of Mr. Ranjan that the petitioner had also in the representation/objection requested an option/opportunity to

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cross examine the author of the report/letter on the basis of which it is alleged that petitioner had submitted a false experience certificate for securing the tender. He stated that the respondents without adverting to the request of the petitioner, vide letter dated 17.09.2025 required the petitioner to appear with the relevant records/evidences pertaining to the show cause notice and explain the same. He submitted that the Chief Engineer ignoring all the contentions raised by the petitioner in the reply issued letter dated 10.12.2025 proceeded to blacklist the petitioner for a period of 10 years in terms of Clause 11 of the Bihar Contractors Registration Rules, 2007 read with Order No. 154 dated 18.06.2015. According to Mr. Ranjan, the petitioner invoked the jurisdiction of this Court in C.W.J.C. No. 510 of 2026. The said writ petition was disposed of by this Court on 02.02.2026 relegating the petitioner to the Secretary/Appellate Authority in terms of the Bihar Contractors Registration Rules, 2007. Accordingly, the writ petition bearing C.W.J.C. No.10828 of 2025 was permitted to be withdrawn vide order dated 16.04.2026. According to Mr. Ranjan, the petitioner had also filed SLP against the order dated 02.02.2026. The said SLP came to be dismissed vide order dated 08.05.2026. He stated the petitioner preferred an appeal before the Secretary,

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Minor Water Resources Department under Clause 11 of the Bihar Contractors Registration Rules, 2007 challenging the order of blacklisting contained in order dated 10.12.2025. According to learned counsel, the Secretary vide order dated 28.07.2026 rejected the appeal filed by the petitioner and affirmed the order dated 10.12.2025 blacklisting the petitioner for a period of 10 years. His submissions against the impugned orders are primarily as under:

(i) The registration of the petitioner under the Bihar Contractors Registration Rules, 2007 has already expired on 17.02.2024 and therefore, no order could have been passed in terms of the said Rules.

(ii) The Chief Engineer who passed the impugned order as the Registering Authority had no jurisdiction to pass such an order in view of the fact that pursuant to the expiry of the registration of the undersigned/appellant on 17.12.2024 he ceased to be the Registering Authority to exercise any power under the 2007 Rules.

(iii) The impugned order has been passed travelling beyond the allegations in the show cause notice and taking into consideration those provisions and

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penal sections which were not referred to in the show cause notice.

(iv) The reliance placed on Office Order no. 154 dated 18.06.2015 for imposing penalty makes the order unsustainable for the reason that Office Order No. 154 dated 18.06.2015 cannot be the basis for imposing a penalty, in as much as the same having not been issued in the name of the Governor of Bihar, it could not be treated to be a decision of the State Government and further the said order has not even been notified in the Gazette of Bihar.

(v) The impugned order has been passed on the allegation of forged/fabricated certificate stated to have been proved on the mere *ipse dixit* of the Department without anyone called to prove the document, which is alleged to be forged on the basis of the alleged report.

(vi) Further the blacklisting for a period of 10 years is akin to permanent blacklisting, which is impermissible. He has relied upon the following judgments in support of his submission: ***2014 (14) SCC 731*** (***M/s Kulja Industries Limited Vrs. Chief General***

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Manager Western Telcom Project BSNL & Ors.), ***2012 (11) SCC 257 (M/s. Patel Engineering Ltd. Vrs. Union of India & Anr.)*** and ***2023 (6) SCC 1 (State Bank of India & Ors. Vrs. Rajesh Agarwal & Ors.)***.

4. Mr. S.D. Sanjay, learned Advocate General appearing for the respondents would contest the submissions made by Mr. Prabhat Ranjan by stating that the impugned order passed by the Secretary, Minor Water Resource Department on an appeal application filed by the petitioner against the order of the blacklisting issued by the Chief Engineer, Minor Water Resources Department Bihar, Patna vide Memo No. 10.12.2025 is as per the provisions contained in the Bihar Contractors Registration Rules, 2007 and order No. 154 dated 18.06.2015 which is a well considered and a reasoned order.

5. He stated that the petitioner was found guilty of submitting false and forged experience certificate while submitting his bid in a tender and was accordingly, blacklisted by the competent authority under the Bihar Contractors Registration Rules, 2007. No leniency can be shown to the petitioner in such a serious matter for submitting the forged paper in the tender. He also stated that the submission of Mr. Ranjan that the registration having expired on 07.02.2024, no

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order could have been passed for blacklisting is a misconceived argument as the blacklisting is for submitting a forged and fabricated experience certificate for procuring the work which action is different and at variance with the registration, as a contractor under the Rules of 2007. According to him, indepdnent of registration the respondents can blacklist a contractor for good valid reasons and hence, the order passed by the respondents cannot be contested. He seeks the dismissal of the writ petition.

6. Having heard the learned counsel for the parties, the short issue which arises for consideration is whether the impugned orders passed by the Chief Engineer/Appellate Authority dated dated 10.12.2025 and 28.07.2026 are justified in the facts of this case. We have already reproduced the submissions made by Mr. Prabhat Ranjan challenging the impugned orders. It must be noted for the purpose of completeness that Mr. Ranjan has not made any submission on the merit of allegation against the petitioner that the petitioner had submitted false and fabricated experience certificate in the tender under Nawada Division issued under NIT No. 09/2021-22 for the Renovation of Budhwara Ahar Pine Scheme. It is a case where one of the competitive bidder namely Amrendra

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Kumar filed a complaint against the petitioner for furnishing false and fabricated experience certificate issued by Executive Engineer, Minor Irrigation, Aurangabad under Letter No. 958 dated 08.08.2021 which work executed by M/s Madhya Bihar Technology Pvt. Ltd. Under Agreement No. 07F2/2021-22. Mr. Ranjan's submission is primarily that the registration under the Bihar Contractors Registration Rules had already expired on 17.02.2024 and therefore, no order could be passed in terms of the said Rules. Though the submission looks appealing on a first blush but on a deeper consideration, it is clear that the subject matter of the show cause notice/the impugned orders was for submitting a forged/fabricated experience certificate having executed a work against the Tender Invitation Notice No.09/2021-22 for the Minor Irrigation, Nawada. Though the registration of the petitioner under the Rules of 2007 had expired much thereafter i.e. on 17.02.2024, but much before that date in 2022 itself action was initiated to inquire into the aspect of submitting the forged and fabricated certificate by the petitioner resulting in the order dated 14.03.2023 of blacklising. The said order became the subject matter of challenge and the same was set aside. In any case, the impugned orders are in continuance of the action initiated in the year 2022, that is much

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before the expiry of registration on 17.02.2024 so the argument is unmeritorious. In any case, the subject matter of a show cause notice for blacklisting is different from expiry of registration under the Rules of 2007. In other words, the action of blacklisting has no connection/relation with the registration of the petitioner under the Rules of 2007. A registration under the Rules of 2007, recognizes the contractor to bid for tender in the department, but the expiry of the same precludes the contractor to bid for tender but the same is not a bar for the authorities to take action against a contractor for certain omission/commission, as in this case, to secure a tender through forged and fabricated document. It follows, the employer is with its right to exercise the power of blacklisting, which power arises from the relation of the parties. Hence, this plea of Mr. Ranjan is liable to be rejected.

7. One of the plea of Mr. Ranjan was also that the impugned decision of the respondents is without specifying the allegation and penal provisions in the show cause notice and as such beyond the same. It is a fact that this litigation has a chequered history. In one of the order issued on 10.12.2025 which became the subject matter of this writ petition a reference is made to the Order No. 154 dated 18.06.2015. The said order

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became the subject matter of the appeal before the Appellate Authority wherein the second impugned order dated 28.07.2026 is passed. In that sense, the proceedings which culminated in the order dated 28.07.2026 having arisen from the show cause notice dated 09.05.2025 which resulted in the impugned order dated 10.12.2025, wherein a reference is made to the Order No. 154 dated 18.06.2015, it can be presumed and rightly so that the petitioner was put to notice and was aware of the fact that the impugned action against the petitioner was primarily relatable to the Rules of 2007 read with Sub Clause (4) of Clause 8 of Order No. 154 dated 18.06.2015 and as such, no prejudice has been caused to the petitioner for not referring to the Order No. 154 dated 18.06.2015 in the show cause notice.

8. One of the submissions of Mr. Ranjan is that the Office Order No. 154 dated 18.06.2015 imposing penalty makes the order unsustainable and/or could not have been the basis for imposing penalty as the same was not issued in the name of the Governor of Bihar. That apart, according to him, the same order is restricted to Road Construction Department and not applicable to Minor Water Resources Department, inasmuch as the letter was not the part of the registration of the petitioner nor has been issued for general application in all departments.

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9. Such a submission is liable to be rejected for the reason that it is a settled law by the Hon'ble Supreme Court that the power to blacklist is an inherent power of the authority without there being a specific provision, administrative or statutory .

10. In this regard, we may refer to the judgment of Hon'ble Supreme Court in ***M/s Kulja Industries Limited Vrs. Chief General Manager W.T. Proj. BSNL & Ors. (Civil Appeal No. 8944 of 2013)*** wherein it held that 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 inherent in the party allotting the contract. The Court held that there is no need for any such power being specifically conferred by statute or reserved by contractor. According to the Court '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. The Court also clarified that between two private parties the right to take any such decision is absolute and untrammelled by any constraints whatsoever. Surely, any such decision is subject to judicial review when the same is taken by the State or any its instrumentalities. According to the Court, the same implies that

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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.

11. Having noted the position of law, it follows that the reliance on the Order No. 154 dated 18.06.2015 would have no bearing on the Contracting Authority to blacklist a contractor for a good and valid reason. Hence, it follows it is inconsequential that the order has been issued by the Road Construction Department and not by Minor Irrigation Department and also it is not gazetted in the name of the Governor.

12. In so far as the issue of proportionality is concerned, the issue is no more *res integra* in view of the decision of the Co-ordinate Bench of this Court in the case of ***Ashish Anand Vrs. State of Bihar passed in C.W.J.C. No. 19292 of 2025***, wherein the Court had formulated two issues for its consideration.

13. The Issue No. (ii) is an identical one, which relates to the proportionality of the order of blacklisting for a period of 10 years. The Co-ordinate Bench has answered the said issue in paragraph no. 17 onwards which we reproduce as under:

Re. Issue No. (ii)

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17. It is not in dispute that the work experience certificate submitted by the petitioner was found to be false upon verification conducted by the Executive Engineer, Building Construction Division, Supaul. Pursuant thereto, a show cause notice was issued to the petitioner. The records further reveal that when the petitioner failed to submit any reply, a reminder show cause notice dated 21.03.2023 was also issued, thereby granting him a further opportunity to explain his stand.

18. In response to the reminder show cause notice, the petitioner submitted his reply dated 27.03.2023, wherein he admitted that the work experience certificate furnished by him was false and sought pardon for the same. Thus, the very basis of the impugned action stands admitted by the petitioner himself.

19. The contention of the petitioner that no opportunity of hearing was granted also does not merit acceptance. The petitioner was served with a show cause notice and thereafter a reminder show cause notice. He also submitted his written explanation, which has been considered before passing the impugned order. In the facts of the present case, this Court is satisfied that the principles of natural justice have been duly complied with.

20. This Court further finds that the impugned order has been passed in terms of the BSEIDC Office- Order contained in Letter No. 73 dated 02.06.2022, issued in furtherance of the Bihar Contractor Registration Rules, 2013, which specifically provides that where a contractor submits forged or fabricated documents, he shall be blacklisted for a period of ten years. Therefore, the authority has merely imposed the consequence prescribed under the applicable Rules and policy.

21. The Hon'ble Supreme Court in ***Patel Engineering Ltd. v. Union of India, reported in (2012) 11 SCC 257****, has held that blacklisting is a recognised power of the State and can be exercised for legitimate purposes, provided the principles of*

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natural justice are complied with. The relevant portion of the said order reads as follows:

> ***"15.** It follows from the above judgment in Erusian Equipment case that the decision of the State or its instrumentalities not to deal with certain persons or class of persons on account of the undesirability of entering into the contractual relationship with such persons is called blacklisting. The State can decline to enter into a contractual relationship with a person or a class of persons for a legitimate purpose. The authority of the State to blacklist a person is a necessary concomitant to the executive power of the State to carry on the trade or the business and making of contracts for any purpose, etc. There need not be any statutory grant of such power. The only legal limitation upon the exercise of such an authority is that the State is to act fairly and rationally without in any way being arbitrary—thereby such a decision can be taken for some legitimate purpose. What is the legitimate purpose that is sought to be achieved by the State in a given case can vary depending upon various factors."*

*22. In **Gorkha Security Services v. Government (NCT of Delhi), (2014) 9 SCC 105**, the Hon'ble Supreme Court held that before passing an order of blacklisting, the person concerned must be given a meaningful opportunity to show cause against the proposed action. The relevant portion of the said order reads as follows:*

> ***"Necessity of serving show-cause notice as a requisite of***

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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."*

23. In the present case, the requirement stood satisfied as the petitioner was issued a show cause notice, followed by a reminder show cause notice, and his reply dated 27.03.2023 was duly considered before the impugned order was passed.

24. In view of the admitted conduct of the petitioner, the compliance with the principles of natural justice and the statutory consequence prescribed under the Bihar Contractor Registration Rules, 2013 read with the BSEIDC Office- Order dated 02.06.2022, this Court finds no illegality or arbitrariness in the impugned order dated 11.05.2023 warranting interference in exercise of writ jurisdiction.

25. Accordingly, Issue No. (ii) is answered against the petitioner.

26. In view of the aforesaid discussion, this Court does not find any reason to interfere in the present writ application.

27. Accordingly, the present writ

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application stands dismissed.

28. Pending application (s), if any, shall also stands disposed of."

14. Having noted the aforesaid position of law and also the fact that the competent authority while passing an order of blacklisting has referred to the Officer Order No. 154 dated 18.06.2015, the vires of which has not been challenged by the petitioner, we are of the view that the impugned orders cannot be challenged on the grounds urged by Mr. Ranjan.

15. Now, on the issue of proportionality, that is whether the blacklisting for 10 years is justified in the facts of this case.

16. The allegation against the petitioner is of submitting a false and fabricated experience certificate while applying for a tender in the year 2021-22. The factum that the petitioner had submitted such a certificate has not been contested by Mr. Ranjan.

17. Hence, it follows the blacklisting is not for violating any provisions of the contract but the very attempt of the petitioner to secure a contract on the basis of a false certificate purported to have been issued by Minor Irrigation, Nawada for a work executed by a third party.

18. In other words, the petitioner sought to rely on the

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certificate showing him having executed the work which otherwise was executed by a third party. The certificate being a false and fabricated would depict the manner in which the petitioner intend to secure a contract which is a very serious misdemeanour as contended by Mr. S.D. Sanjay.

19. Such a ground is different from the ground wherein the blacklisting is for violating the terms of the provisions of the Contract, which ground may not be such a serious allegation as submitting a false and fabricated certificate, which allegation has not been contested by Mr. Ranjan.

20. If that be so, surely the allegation shocks the conscience of the Court and need to be taken seriously to ensure such acts are not repeated in future. In the facts more particularly keeping in view the judgment of the Division Bench wherein the Division Bench has upheld such a provision/punishment, the impugned order of blacklisting for a period of 10 years cannot be interfered with. We may also at this stage deal with the submission of Mr. Ranjan seeking parity by referring to cases wherein for similar allegation the period of blacklisting was reduced from 10 years to a lesser period, by holding that each case has to be seen in the facts of that case. In

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any case given the position of law as settled by this Court in ***Ashish Anand*** (supra), we are not inclined to accept this plea of parity of Mr. Ranjan.

21. For the aforesaid reasons, the writ petition is dismissed.

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

(V. Kameswar Rao, CJ)

(Partha Sarthy, J) : I agree.

(Partha Sarthy, J)

shailendra/-

AFR/NAFR	AFR
CAV DATE	13.10.2026
Uploading Date	05.11.2026
Transmission Date	NA

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