

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8777 of 2020

Star Build Max Pvt. Limited, Balua Tal, Motihari, District- East Champaran through its Proprietor Parvez Ahmad Khan, aged about 47 years, Gender- Male, Son of Haseen Ahmad Khan, Resident of Balua Tal, Motihari, P.O.- Motihari, P.S.- Motihari Town, District- East Champaran.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary cum Principal Secretary, Road Construction Department, Government of Bihar, Patna.
2. The Engineer-in-Chief, Road Construction Department, Government of Bihar, Patna.
3. The Chief Engineer (North), Road Construction Department, Road Division, Darbhanga.
4. The Superintending Engineer, Road Construction Department, Road Circle, Darbhanga.
5. The Executive Engineer, Road Construction Department, Road Division, Darbhanga.
6. The Executive Engineer, Flying Squad - 3, Road Construction Department, Government of Bihar, Patna.
7. The Junior Engineer, Road Construction Department, Road Division, Darbhanga.
8. The Assistant Engineer, Road Construction Department, Road Division, Darbhanga.

... .. Respondents

Appearance :

For the Petitioner : Mr. Ranjeet Kumar, Advocate
Mr. Kundan Kumar, Advocate
Mr. Yogesh Kumar, Advocate
For the Respondents : Mr. Manoj Kumar Ambastha, S.C.-26

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

C.A.V. JUDGMENT

Date : 21-10-2021

The petitioner is a company registered as Class-I contractor under Bihar Contractors Registration Rules, 2007, issued in the nature of office order by the Road Construction



Department, Government of Bihar. It was awarded certain work relating to construction of road in 2015.

2. By an order dated 27.12.2019, issued by the Engineer-in-Chief, Road Construction Department, Patna (respondent No.2), the petitioner has been black-listed for a period of 15 years in exercise of power under Rule 11(A)(ii) of the Rules of 2007 read with 8.1.B of the Departmental Order No.154 as contained in Memo No.5403(S). The said order of black-listing was challenged by the petitioner before this Court by filing a writ petition giving rise to C.W.J.C. No. 1127 of 2020 on various grounds including the ground that the show cause notice issued to the petitioner before issuance of the order of black-listing did not indicate about the proposed final action in the event the explanation in response to the show cause notice was not found satisfactory. Reliance had been placed on Supreme Court's decision in case of ***Gorkha Security Services vs Govt. of NCT of Delhi & Ors.***, reported in **(2014) 9 SCC 105**. A coordinate Bench of this Court, upon looking into the tenor of the show cause notice issued by the Department, in its order dated 21.01.2020 passed in the said C.W.J.C. No. 1127 of 2020, reached a conclusion that the show cause notice could not be faulted with on the said ground. In respect of the other grounds taken by the petitioner, the coordinate



Bench, while disposing of the matter gave the petitioner a liberty to prefer an appeal before the Departmental Secretary. Relevant portion of the order dated 21.01.2020 reads as under : -

“However, the other ground which has been urged by the petitioner is that notwithstanding the aforesaid facts, the period for which the petitioner has been blacklisted is highly disproportionate in relation to the deficiencies in the work at three places only and for which the petitioner has furnished an explanation that the inspection was conducted behind his back and much later i.e. after the onset of the monsoon season.

This aspect does require a re-look.

Under the aforesaid circumstances, this Court provides that in case the petitioner prefers an appeal before the Departmental Secretary and places every fact before him, he shall take a holistic view of the matter including the ground of bias which has been raised during the course of argument by the petitioner and shall pass a reasoned order in accordance with law within a period of sixty days.

The appellate authority shall also take a call on the issue whether the order of blacklisting be deferred till the final decision by the Tribunal in Case No. 129 of 2009.

With the aforesaid direction/observation, the writ petition stands disposed off.”



3. A Letters Patent Appeal was preferred by the petitioner, giving rise to L.P.A. No. 95 of 2020, which was disposed of by an order dated 01.05.2020 of a Division Bench of this Court, relevant portion of which reads as under : -

“That during the course of the day, the writ petitioner/appellant shall prefer an appeal in terms of the directions issued by the learned Single Judge of this Court vide impugned judgment dated 21.01.2020 passed in CWJC No.1127 of 2020 titled as “Star Build Max Pvt. Limited Balua Tal, Motihari Versus The State of Bihar & Ors”.

Sri Vikas Kumar, learned Standing Counsel-II, states that on or before 5th of May, 2020, the appropriate authority shall positively decide the same.

We see no reason to interfere with the impugned judgment and as such the present appeal is disposed on the above mutually agreeable terms.”

4. Purportedly, in compliance with the direction of the coordinate Bench of this Court, contained in the aforesaid order dated 21.01.2020 (supra) and subsequent Division Bench order dated 01.05.2020 (supra), the Additional Chief Secretary, Road



Construction Department, Government of Bihar, has rejected the petitioner's appeal by an order dated 11.09.2020 (Annexure-33).

5. In the aforesaid background, the petitioner has challenged the said order of the Additional Chief Secretary dated 11.09.2020 rejecting his appeal. The petitioner has also sought for setting aside the order dated 27.12.2019, whereby it has been black-listed.

6. Mr. Manoj Kumar Ambastha, learned Standing Counsel No. 26 representing the State of Bihar has taken a preliminary objection to the effect that the writ petition, to the extent it seeks quashing of the black-listing order dated 27.12.2019, is barred by *res judicata*. In support of his submission, he has contended that the same order dated 27.12.2019 was put to challenge before this Court by the petitioner earlier and since a coordinate Bench of this Court found no requirement of interference with the said order, the petitioner cannot question the legality of the said order in the present proceeding. He has relied on Supreme Court's decision in case of *Shankara Coop. Housing Society Ltd. v. M. Prabhakar*, (AIR 2011 SC 2161) and *Beerbal Singh v. State of U.P.*, (AIR 2017 SC 2712). The said submission, in the Court's opinion, is thoroughly misplaced. This Court, in the earlier writ petition, had found no infirmity in the show cause



notice and had turned down the plea that the show cause notice did not indicate the proposed action of black-listing under the Rules of 2007. It is evident on plain reading of the said order that in respect of other grounds, the Court did specifically mention that the said aspect required a 're-look'. This Court, in the said case, had observed that in case the petitioner preferred an appeal before the Departmental Secretary and placed every fact before him, he would take a holistic view of the matter including the ground of bias, which had been raised during the course of argument on behalf of the petitioner, and pass a reasoned order in accordance with law, within a period of 60 days. It is unreasonable for the State to contend that after rejection of the petitioner's appeal, it is impermissible for the petitioner to challenge the original order. It is illogical to raise such objection. Once the petitioner has challenged the order of the appellate authority, it is always open for him to question the original order, if the grounds for such challenge are available to him. It would be totally a meaningless exercise for the petitioner to challenge the appellate order if he is not permitted to challenge the original order.

7. Mr. Ambastha has further argued that the grounds, which were taken by the petitioner in the earlier writ application cannot be raised in the present proceeding, if they were rejected.



Further, the petitioner cannot take such new plea in the present writ application, which was available to him while challenging the black-listing order dated 27.12.2019 in C.W.J.C. No. 1127 of 2020. To this limited extent, Mr. Ambastha is correct in his submission, applying the doctrine of constructive *res-judicata*.

8. Accepting the aforesaid submission of Mr. Ambastha, the new ground, which has been taken in the present writ application to assail the impugned order of black-listing and the appellate order that the show cause notice did not disclose proposed penalty and, therefore, the same was bad, is rejected at the very outset.

9. Mr. Ranjeet Kumar, learned counsel appearing on behalf of the petitioner has submitted that the Additional Chief Secretary, Road Construction Department, has passed the impugned order in utter violation of this Court's order dated 21.01.2020 passed in C.W.J.C. No. 1127 of 2020. By the said order, the Departmental Secretary was specifically directed to take holistic view of the matter on various aspects as mentioned in the said order itself, including the aspect of period of black-listing. The appellate authority was under obligation to take a holistic view of the matter including the ground of bias and pass a reasoned order, he urges. Taking this Court to the impugned order



dated 11.09.2020 passed by the appellate authority, he has submitted that the said order does not even refer to the order passed by this Court and the same cannot be said to be a reasoned order dealing with the grounds taken in the petitioner's Memo of Appeal, a copy of which has been brought on record by way of Annexure-32 to the writ application. He has submitted that the order of the appellate authority deserves to be set aside for the reason that the same has been passed not in compliance of this Court's order, rather in spite of this Court's order, to consider the petitioner's appeal on various grounds. The appellate authority, by virtue of the order of the coordinate Bench, was required to reconsider the period of black-listing. He has then submitted with reference to the impugned black-listing order dated 27.11.2019 passed by the Engineer-in-Chief (respondent No.2) that the same is unsustainable as it does not disclose any reason as to why the petitioner's explanation submitted in response to the show cause notice was not acceptable. He has further submitted that an inspection report of a Flying Squad dated 05.05.2017 is the foundation of issuance of the show cause notice against the petitioner, which was never supplied to him before taking the impugned action. The impugned order, which is based on an enquiry report, which was not supplied to the petitioner, deserves



interference by this Court for the same having been passed in utter violation of the principles of natural justice.

10. He has argued that in the black-listing order the Engineer-in-Chief has though referred to the petitioner's explanation submitted on 27.07.2019 (Annexure-28), but has not at all considered the petitioner's point-wise explanation, which was already submitted on 22.09.2018 (Annexure-23). He contends that in response to the show cause notice dated 06.09.2018, the petitioner had submitted his reply on 22.09.2018 itself, which has not at all been considered by the Engineer-in-Chief in his black-listing order. He has argued that the Supreme Court has repeatedly reiterated that black-listing a contractor has grave civil consequences and, therefore, such order should be passed after strictly following the principles of natural justice and in exceptional circumstances. He has relied on Supreme Court's decisions in case of *Erusian Equipment & Chemicals Ltd. vs State Of West Bengal & Anr.* reported in (1975) 1 SCC 70, *Raghunath Thakur vs State of Bihar & Ors*, reported in (1989) 9 SCC 29, *Gorkha Security Services vs Govt. Of NCT Of Delhi & Ors.*, reported in (2014) 9 SCC 105 and *UMC Technologies Private Ltd. vs Food Corporation Of India and Another*, reported in 2020 SCC OnLine SC 934.



11. He has further submitted that the inspection of the Flying Squad was conducted behind the petitioner's back and, therefore, such report could not have been the basis for taking extreme action of black-listing the petitioner. He has made his submission at length to convince this Court that the very initiation of the proceeding for black-listing on grounds mentioned in the show cause notice was not sustainable in view of the factually undisputed aspects of the matter.

12. Counter affidavit and supplementary counter affidavits have been filed on behalf of the respondent State of Bihar. In the counter affidavit, the respondents have justified the action of black-listing the petitioner after having found serious deficiencies in execution of work awarded to it. As regards the report of the Flying Squad, it is their case that the petitioner was made known about the defects in the work executed by it, as noticed by the Flying Squad, which aspect too was raised by the petitioner before this Court in the earlier round of litigation in C.W.J.C. No. 1127 of 2020 and, therefore, the same cannot be raised again in the present proceeding.

13. Mr. Ambastha, learned Standing Counsel No.26 has submitted that there is no illegality in the impugned order of black-listing inasmuch as the same has been passed on careful



examination of all material facts available before the competent authority including the petitioner's reply to the show cause notice. He would submit that the impugned order cannot be said to be unreasoned inasmuch as the reasons have been adequately recorded, though briefly while black-listing the petitioner. He has further submitted that considering the grave lapse on the part of the petitioner in execution of work as found by the authorities including the Flying Squad team, the decision to black-list the petitioner for a term of 15 years cannot be said to be unreasonable. He has reiterated his submission that such grounds, which were not raised in the earlier proceeding by the petitioner and were available to him, cannot be raised now to assail the impugned order of black-listing. He has also reiterated that it is not permissible for the petitioner to raise such ground in the present writ application, which was specifically turned down by this Court in the earlier proceeding in the order dated 21.01.2020 passed in C.W.J.C. No. 1127 of 2020.

14. Having heard learned counsel for the parties and having examined the pleadings and documents brought on record, in my opinion, this writ application deserves to be allowed on the sole ground of total non-application of mind both by the Engineer-in-Chief (respondent No.2) while passing the black-listing order



and by the Additional Chief Secretary, Road Construction Department, while rejecting the petitioner's appeal.

15. This case is yet another example where the State respondents have carelessly imposed the severest of the punishments, which can be imposed on a contractor with reference to the Rules in the nature of executive instructions issued by the Road Construction Department, Government of Bihar. The repeated observations reiterated in series of decisions by the Supreme Court have apparently fallen on deaf ears of the authorities, upon whom jurisdiction has been conferred to black-list a contractor.

16. It is evident from the pleadings and other materials on record that a show cause notice was issued to the petitioner on 06.09.2018 (Annexure-22) requiring the petitioner to submit its reply within 15 days asking it to explain as to why, for the irregularities detected in execution of work by the petitioner as mentioned in the show cause notice, proper action may not be taken against it under the Rules of 2007 and different clauses of the agreement. It appears from the said show cause notice that reportedly average thickness of the road, construction work of which was executed by the petitioner was found to be less than the tolerance level at certain places (Kms 23 and 24). There is



statement made in paragraph 37 of the writ petition that the petitioner had submitted its reply on 22.09.2018 (Annexure-23) in response to the said show cause notice vide letter No.6284(E) dated 06.09.2018. The petitioner had raised jurisdiction of the Flying Squad to conduct inspection and submit report. The fact asserted in the writ petition in paragraph 37 that the petitioner had submitted his reply on 22.09.2018 has not been disputed in any of the pleadings of the respondents. Nearly one year after issuance of the show cause notice and submission of the petitioner's reply thereon, the Engineer-in-Chief through his letter No. 5377(S) dated 15.07.2019 informed the petitioner that the explanation in response to its letter No.6204(E) dated 06.09.2018 had not been submitted. The petitioner was again asked to submit his explanation within seven days as to why appropriate action be not taken under the provisions of the Rules of 2007 and relevant provisions of the agreement. Petitioner submitted his reply on 27.07.2019 (Annexure-28) categorically stating, referring to the letters No. 6284(E) dated 06.09.2018 and 5377(E) dated 15.07.2019 and the petitioner's reply through letter No.47 dated 22.09.2018, that the petitioner had already submitted its explanation on 22.09.2018. It expressed regrets for the department's inaction in not taking any decision on its explanation



and sending reminder in respect of the same show-cause notice, which was already replied. The petitioner mentioned in the letter dated 27.07.2019 that it was evident from its earlier explanation dated 22.09.2018 that the situation had arisen only because of absence of required cooperation from the department. In the said letter dated 27.07.2019, the petitioner further mentioned that he was enclosing a copy of letter No.47 dated 22.09.2018, which was in the nature of explanation earlier submitted by the petitioner. The said letter dated 27.07.2019 (Annexure-28) was certainly not a reply to the show cause notice issued by the Engineer-in-Chief, rather, it was in the nature of information that the show cause reply had already been submitted on 22.09.2018.

17. Proceeding now to the impugned order dated 27.12.2019 (Annexure-29), it can be easily noticed that it is less than one and a half pages order, major portion of which discloses the facts beginning from the execution of the agreement, subsequent cancellation of the agreement, forfeiture of the security and advance money etc. There is one further sentence in the impugned order stating that since no explanation was submitted by the petitioner, a reminder was sent through letter No.5377 dated 15.07.2018 in response to which the petitioner had submitted its explanation on 27.07.2019. There is no reference in the impugned



order to the petitioner's explanation, which, according to it, was submitted on 22.09.2018, which was clearly mentioned in its letter dated 27.07.2019.

18. After referring to the said letter dated 27.07.2019, following is the only discussion in the impugned black-listing order dated 27.12.2019 :

समर्पित . स्पष्टीकरण के समीक्षोपरान्त पाया गया कि संवेदक के द्वारा स्पष्टीकरण में DBM एवं BC की मुटाई प्रावधानित मुटाई कम होने के संबंध में कोई ठोस तथ्य नहीं रखा गया है ना ही BC की औसत FDD 1.6969 gm/cc पाये जाने के संबंध में कुछ कहा गया है। केवल गुणवत्ता जाँच में पायी गयी त्रुटियों पर उनके द्वारा आपत्ति दर्ज करते हुए जाँच को नकारा गया है परन्तु त्रुटियों को नकारने के लिए ना ही कोई साक्ष्य दिया गया है और ना ही कोई तर्कसंगत तथ्य रखा गया है।

19. There is no discussion dealing with the grounds taken by the petitioner in its explanation dated 22.09.2018 in response to the show cause notice dated 06.09.2018, in the impugned order. Impugned order has just referred to the petitioner's letter dated 27.07.2019, which, in fact, was not the petitioner's explanation rather an information to the competent authority that its point-wise explanation had already been



submitted on 22.09.2018. There is absolutely no discussion in the impugned order except what has been quoted hereinabove. After having assigned the aforesaid so-called reason, the Engineer-in-Chief imposed punishment of black-listing the petitioner for 15 years.

20. The appellate authority has exhibited no less casual approach in rejecting the petitioner's appeal by the impugned order dated 11.09.2020. The memo of appeal filed by the petitioner has been brought on record by way of Annexure-32 to the writ application.

21. It may be recalled that by order dated 21.01.2020 passed in C.W.J.C. No. 1127 of 2020 a coordinate Bench of this Court had rejected one of the several grounds taken in the writ petition, viz., that the show cause notice was bad in the absence of incorporation of proposed action, i.e. action of black-listing. Rest of the grounds were required to be examined by the appellate authority while considering the petitioner's appeal. The appellate authority was also required to consider as to whether the punishment was disproportionate or not. Ignoring completely the aforesaid order of this Court, the appellate authority has merely narrated the facts and has not discussed at all the grounds taken in petitioner's appeal. It has not cared to refer to the explanation



which the petitioner had submitted in reply to show cause notice nor the appellate authority considered it fit with due deference to this Court's order dated 21.01.2020 to reconsider the period for which the petitioner had been black-listed, keeping in mind the nature of deficiency found.

22. The Court is constrained to remind the respondents of the law laid down by the Supreme Court and the observations made in a series of decisions laying down that drastic action of black-listing has grave consequences, in following cases : -

- (i) ***Erusian Equipment & Chemicals Ltd. vs State Of West Bengal & Anr.*** Reported in (1975) 1 SCC 70,
- (ii) ***Raghunath Thakur vs State Of Bihar & Ors*** reported in (1989) 9 SCC 29,
- (iii) ***Gorkha Security Services vs Govt. Of NCT Of Delhi & Ors.***, reported in (2014) 9 SCC 105,
- (iv) ***Daffodils Pharmaceuticals Ltd. and Another vs. State of U.P. and Another***, reported in 2019 SCC OnLine SC 1607, and
- (v) ***UMC Technologies Private Ltd. vs Food Corporation Of India and Another***, reported in 2020 SCC OnLine SC 934.



23. It has been held in the above noted cases that a black-listing order involves serious civil consequences and casts a slur and creates a barrier between the persons black-listed and the Government, in the matter of contractual transactions.

24. Keeping in mind the gravity of the consequences of action of black-listing, the authority exercising such power cannot afford to adopt a casual approach. Graver is the adverse effect of an action of a *quasi* judicial functionary, heavier is the obligation on the authorities exercising such power to act fairly, reasonably, in a transparent manner and in conformity with the principles of natural justice. This duty becomes very onerous in the background of grave fall out of action of black-listing on a contractor. Recording of reasons is one of the basic, but most essential requirement for a *quasi* judicial functionary, if its order has adverse civil/evil consequences. In the absence of this minimum basic requisite, an order of black-listing would become vulnerable.

25. In *Oryx Fisheries (P) Ltd. v. Union of India*, reported in (2010) 13 SCC 427, the Supreme Court has observed that if the finding of a *quasi* judicial authority has to inspire confidence in the minds of those subjected to its jurisdiction, such authority must act with utmost fairness. The principle that justice must not only be done, but it must manifestly appear to be done as



well is equally applicable to the *quasi* judicial proceeding, if such proceeding has to inspire confidence in the mind of those who are subjected to it, the Supreme Court has held. In *Kranti Associates (P) Ltd. v. Masood Ahmed Khan*, reported in (2010) 9 SCC 496, the requirement of disclosing the reasons by a *quasi* judicial authority in support of its order has been exhaustively dealt with. It is considered appropriate to reproduce paragraph 47 of the Supreme Court decision in case of *Kranti Associates (P) Ltd.* (supra), which eloquently lays down the purpose and necessity why it is essential even for the authority exercising the *quasi* judicial function to record reasons in support of their conclusions:-

47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary



exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.



(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor* [(1987) 100 Harvard Law Review 731-37] .)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See *Ruiz Torija v. Spain* [(1994) 19 EHRR 553] EHRR, at 562 para 29 and *Anya v. University of Oxford* [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European



Convention of Human Rights which requires, “adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. *Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.*

(underlined for emphasis)

26. In the case in hand, the Engineer-in-Chief rejected the petitioner’s explanation without referring, even briefly, the contents of the explanation. The said black-listing order dated 27.12.2019 is manifestly without application of mind inasmuch as it does not at all deal with the explanation submitted by the petitioner through its letter dated 22.09.2018.

27. Worse is the case with the order passed by the appellate order, which is not only unreasoned, it has ignored the observations made by this Court in the earlier proceeding.

28. For the reasons stated above, the order dated 27.12.2019 (Annexure-29), issued by the Engineer-in-Chief, Road Construction Department, Patna (respondent No.2) and the order dated 11.09.2020 (Annexure-33) passed by the Additional Chief



Secretary, Road Construction Department, Government of Bihar, rejecting the petitioner's appeal are hereby quashed.

29. For the manner in which the impugned orders have been passed, as noted above, the Court considers it fit to impose a cost of Rs.50,000/- (Fifty Thousand) to be paid by the Engineer-in-Chief (respondent No.2) to the petitioner within one month from the date of receipt/production of a copy of this order.

30. The Court is constrained to impose exemplary cost in the facts and circumstances noted above as, in the Court's opinion, the authorities have passed the impugned orders completely ignoring all the observations made by the Supreme Court in various decisions as noted above and specific direction by the coordinate Bench of this Court dated 21.01.2020 passed in C.W.J.C. No. 1127 of 2020 (*Star Build Max Pvt. Limited vs. The State of Bihar and Others*).

31. For having ignored the observations made by a coordinate Bench of this Court in its order dated 21.01.2020 passed in C.W.J.C. No. 1127 of 2020 (*Star Build Max Pvt. Limited vs. The State of Bihar and Others*), while rejecting the petitioner's appeal, I was considering initiation of *suo motu* contempt proceeding against the Appellate Authority. I have, however, refrained from doing so. Nonetheless, it is considered



appropriate to issue a note of caution to the authorities to be careful while dealing with the judicial orders passed by this Court, defiance of which may have serious consequences.

32. Since the impugned order of black-listing has been quashed by the present order on the ground of the same being unreasoned and non-speaking, the competent authority shall be at liberty to pass an order afresh, duly taking into account the explanation submitted by the petitioner through its letter/representation dated 22.09.2018. The competent authority shall be under obligation to discuss the explanation submitted by the petitioner in the said letter and record its specific finding as to why the points taken in the petitioner's explanation were not acceptable to it. In case any adverse order is passed by the competent authority, the petitioner shall be at liberty to question the correctness of the same before the appellate authority by preferring an appeal.

33. This application is allowed with the aforesaid direction and observations and cost accordingly.

(Chakradhari Sharan Singh, J)

Pawan/-

AFR/NAFR	AFR
CAV DATE	10.09.2021
Uploading Date	21.10.2021
Transmission Date	N/A

