

News

Patna High Court Affirms Blacklisting Of Building Company For Requesting Faxed Experience Certificate In Public Tender Patna High Court was hearing an Writ Petition challenging the order blacklisting the registration of the Petitioner-Firm for three years.



The Patna High Court has affirmed blacklisting of a Building Company on charges of having submitted forged Experience Certificate in Public Tender with enquiry still pending, terming the act a grave one.

The Court was hearing a Writ Petition against the blacklisting order cancelling the registration of the Petitioner-Firm for three years.

The Acting Chief Justice Ashutosh Kumar division bench and Justice Partha Sarthy noted,

“Submission of a false certificate resulting in the registration of an FIR, despite the investigation with regard to the same being pending, is a serious issue which impacts and undermines the trust of the Corporation and it is the responsibility of every Corporation to caution the other counterparts about such individuals.”

The Petitioner was represented by Senior Advocate Umesh Prasad Singh whereas the Respondent was represented by Senior Advocate Prasoon Sinha.

Facts of the Case The Chief Engineer, Bihar Police Building Construction Corporation had invited tender for construction and electrification of Police Stations and Out-houses in the District of Gaya, except other works.

One of Clauses of Notice for Inviting Tender was that only such firms' bid would be taken into consideration who would upload their experience certificate of executing work of the Central Government/State Government/Public Sector Undertakings of similar nature along with evidence thereof.

The Petitioner-Firm and eight others had submitted their bids for the said work. The Petitioner had furnished his performance/experience certificate with the tender documents. The certificate was allegedly signed by the Managing Director of the Jharkhand State Tribal Cooperative Vegetable Marketing Federation, Ranchi.

On checking the documents, it was revealed that no such performance/experience certificate as uploaded by the petitioner was ever issued from the VEGFED office. One of the Partners of the Petitioner- Firm had also submitted an affidavit that all the certificates submitted with the bid are true and that in case of detection of any wrong information, the concerned authority would be free to take legal action, such as blacklisting the registration of the firm. Consequently, a Criminal Case was lodged against all the partners of the Petitioner- Firm and the power of attorney holder for offences punishable under Sections 467, 468, 471, 420, 120(B) and 511 of the Indian Penal Code.

Subsequently, the impugned order of blacklisting the Petitioner- Firm, at first for an indefinite period but then revised for a period of three years, was made.

It was submitted on behalf of the Petitioner- Firm to the Appellate Authority that the blacklisting order was without jurisdiction insofar as on the date of the issuance of the Show-Cause Notice, the Chief Engineer was no longer the registering authority as the registration of the Petitioner- Firm had lapsed. Patna High Court Further, it was argued that allegations contained in the FIR were even then pending inquiry and blacklisting order was ordered when bid period for the tender process had run out, making no opportunity remain with the Respondents, due to non-revision of the bid validity period, to open bid documents and proceed with the same.

Reasoning By Court The Court first observed that neither in the Writ Petition nor before the Appellate Authority or the Reviewing Authority, the Petitioner-Firm declared regarding the experience certificate to be authentic It also observed that the communication issued by the Managing Director of VEGFED clearly establishes that the experience certificate uploaded by the Petitioner-Firm was never issued by the VEGFED, prima facie establishing that a false document was uploaded by the Petitioner.

"In the petitioner/firm's case,

even if it is presumed that the notice was not issued, which is due to the false address given by the petitioner during registration, the petitioner/firm had every chance of defending himself in front of the Appellant Authority, which, in its wisdom, shortened the duration of blacklisting from five years to three years. It doesn't matter if the registration of the petitioner/firm has lapsed. The action of the petitioner/firm in giving false information for the purpose of crossing the qualification bar, dis-entitles the petitioner/firm from seeking any relief,"

the Court noted.