IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4915 of 2026

CNR No. BRHC010275632026

==========

M/s Shailcon Construction through its Partner Akshay Kumar, Male, aged about 45 years, Son of Kamleshwar Rai, Resident of Village- Rasauli, P.O.- Kateya, P.S.- Katiya, District- Gopalganj, Bihar.

... ... Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Engineer -In- Chief, Water Resources Department, Government of Bihar, Patna.
3. The Engineer -In- Chief, Rural Works Department, Government of Bihar, Patna.
4. The Executive Engineer, Rural Works Department, Works Division- Siwan-1, District- Siwan, Bihar.
5. The Executive Engineer, Rural Works Department, Works Division- Gopalganj- 2, District- Gopalganj, Bihar.

... ... Respondent/s

==========

Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan, Advocate

For the Respondent/s : Mr. S.D. Sanjay, Advocate General
Dr. M.V. Chandra, AAG-2
Mr. G.R. Shahi, A.C. to A.G.

==========

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

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 06-11-2026

Heard learned counsel for the petitioner and learned

WEB COPY

counsel for the respondents.

2. The petitioner has filed the instant application for the following reliefs:

> *"(i) Quashing of the Notice to Show Cause as contained in Letter No. 123 dated 08.01.2026 (Annexure P/4) by which, the Engineer In-Chief Cum Registering Authority has required the petitioner to submit reply within 15-days against the contemplated action of Blacklisting under Clause 11 (Ka) (vii) of the Bihar Contractors Registration Rules, 2007 for the allegation of submission of False Payment Certificate(s) in a bidding process;*
>
> *(ii) Quashing of the consequential order bearing Memo No. 1295 dated 09.03.2026 (Annexure P/6) by which, the Engineer In-Chief, without considering the reply filed by the petitioner, travelling beyond the relied upon provision(s) in the Show Cause Notice and taking into consideration fresh material(s) has blacklisted the Registration of the petitioner for a period of 10-years;*
>
> *(iii) Restraining the Respondents from giving effect to the order bearing Memo No. 1295 dated 09.03.2026 (Annexure P/6) during the pendency of the present writ application and/or without the leave of this Hon'ble Court."*

3. The case of the petitioner is that on the

WEB COPY

respondents coming out with a Notice Inviting Tender no.RWD/ MMGSY (Awashesh-Gen) / HQ /ET /2025 /07 on 12.7.2025 in connection with construction of high level bridge and six years maintenance work, the petitioner, who is a registered contractor along with others submitted his bid and participated in the tender process. A show cause notice dated 8.1.2026 was issued by the Engineer-in-Chief (Headquarters), Water Resources Department, Government of Bihar to the petitioner stating therein that along with his tender, the petitioner had submitted a payment certificate said to have been issued by the Executive Engineer, Rural Development Department on 16.5.2024 which on verification was found to be forged. The petitioner was asked to file his reply within 15 days as to why his registration no.WRD190625C1PF24 not be blacklisted on account of misconduct under the Bihar Contractors Registration Rules 2007 (‘the Rules of 2007’ in short).

4. The petitioner filed his reply to the show cause notice on 19.1.2026 stating therein that no forgery has been committed by him and that the said certificate was handed over by an employee of the Rural Works Department, Works Division, Siwan-1 to an employee of the petitioner. It was further stated by the petitioner that the amount mentioned in the

WEB COPY

certificate, genuineness of which is doubted, matches with the tax deducted at source as provided in the 26AS certificate and which has been confirmed by the petitioner's Chartered Accountant.

5. The respondent-authorities came out with the order impugned dated 9.3.2026 blacklisting the petitioner for a period of 10 years.

6. It is submitted by learned counsel for the petitioner that the respondents failed to take into consideration the points raised by the petitioner in his reply to the show cause notice and though the registration of the petitioner is valid till 18.6.2030, by the order impugned, he has been blacklisted for a period of 10 years which goes beyond the period of registration and which is impermissible.

7. It was further submitted that the remedy of appeal as provided under Rule 11(e) of the Rules of 2007 is not an efficacious remedy. Further, so far as the departmental letter no.201 dated 14.3.2016 prescribing the punishment of blacklisting of 10 years is concerned and which has been relied upon by the respondents, vires of the same has been challenged by the petitioner in a separate writ application being CWJC no.5016 of 2026. In support of his contentions, reliance has

WEB COPY

been placed by the learned counsel for the petitioner on the judgment dated 7.9.2021 passed in CWJC no.12736 of 2021 (Ramanand Rai vs. State of Bihar and Ors.) as also on the judgments of the Hon'ble Supreme Court in the case of Institute of Chartered Accountants of India vs. L. K. Ratna and Others; (1986) 4 SCC 537, Oryx Fisheries Private Limited vs. Union of India and Others; (2010) 13 SCC 427 and Krishnadatt Awasthy vs. State of Madhya Pradesh and Others; (2025) 7 SCC 545.

8. The application is opposed by learned counsel appearing for the respondents. Referring to the counter affidavit filed, it is submitted that on participating in the tender process for execution of the work in question, the petitioner submitted a fake payment certificate and on the same being discovered, he was disqualified by the Technical Bid Evaluation Committee on 16.12.2025. The petitioner was issued with a show cause notice and on filing his reply, taking into consideration the contents thereof, the respondents passed the order dated 9.3.2026 blacklisting the petitioner for a period of 10 years. It was submitted that there is no illegality in the order impugned and so far as the order no.201 dated 14.3.2016 of the Water Resources Department, Government of Bihar is concerned, there is no illegality in the same. The punishment for

WEB COPY

submission of incorrect documents for succeeding in the tender is already provided under Clause 11(ka) of the Rules of 2007 and it was pursuant to the judgment in Kulja Industries Limited vs. Chief General Manager, Western Telecom Project Bharat Sanchar Nigam Limited and Others; (2014) 14 SCC 731 that the said order prescribing the punishment has been passed by the department. There is no merit in the writ application and no illegality in the order impugned. Thus, the writ application be dismissed.

9. Having heard learned counsel for the parties and having perused the material on record, it transpires that pursuant to the petitioner having submitted the payment certificate (along with the bid) purportedly issued by the Executive Engineer, Rural Development Department, the said certificate on being sent for verification was found to be forged.

10. The petitioner was issued with a show cause notice on 8.1.2026 asking him to file his reply within 15 days as to why he be not proceeded against under the Rules of 2007 for having submitted a forged payment certificate and be blacklisted.

11. The petitioner submitted his reply on 19.1.2026 stating therein that so far as the certificate is concerned, the

WEB COPY

same had been handed over by some employee working in the office of the Rural Works Department, Works Division, Siwan-01 to an employee of the petitioner. He further states that there is no discrepancy in the figures in the said certificate and as a contractor does not have the sample signature of the authorities, so he is unable to compare the signature on the certificate to know as to whether the same is genuine or not.

12. It transpires that a copy of the said certificate was sent to the respondent concerned ie the Executive Engineer, Rural Works Department, Works Division, Siwan-1 who in his reply contained in memo no.1732 dated 22.9.2025 addressed to the Executive Engineer, Rural Works Department, Works Division, Gopalganj-2 informed that the certificate did not contain his signature, the office register did not show the same to have been issued from his office and was forged.

13. Taking all these materials into consideration, the reply submitted by the petitioner to the show cause notice, was rejected.

14. On the submissions made in connection with the departmental letter no.201 dated 14.3.2016, vires of the same is not a subject matter of the instant application. Neither the petitioner has sought any relief against the said letter in the

WEB COPY

instant application nor did he lay much stress in his argument with respect to the same. Leaving the issue with respect to the legality of the same open it may only be observed here that Rule 11 of the Rules of 2007 itself provide the circumstances under which the name of the registered contractor may be blacklisted and the same includes submission of forged document.

15. So far as the judgments relied upon by learned counsel for the petitioner is concerned, the same are with respect to the proposition that in all administrative decisions, a quasi judicial authority must record reasons in support of its conclusion. There can be no dispute with respect to the proposition of law in the decisions cited, however it may be mentioned that besides the order impugned containing reasons, the allegations levelled against the petitioner of having used a forged document to succeed in obtaining a tender and the purported author of the document having categorically stated that the document is not genuine, in the opinion of the Court, the charge levelled against the petitioner is quite serious.

16. Further, the Hon'ble Supreme Court in the case of Kulja Industries Limited (supra) has held as follows:

> *"17. That apart, the power to blacklist a contractor whether the contract be for supply of*

WEB COPY

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."

17. So far as the order impugned in the instant case is concerned, the Court is of the opinion that the same contains

WEB COPY

good reasons for passing the order of blacklisting of the petitioner for a period of 10 years.

18. In view of the facts and circumstances of the case stated herein above, the Court finds no illegality in the order impugned and the application is dismissed.

(Partha Sarthy, J)

(V. Kameswar Rao, CJ): I agree.

(V. Kameswar Rao, CJ)

Saurabh/-

AFR/NAFR	NAFR
CAV DATE	21.09.2026
Uploading Date	06.11.2026
Transmission Date	N/A

WEB COPY