

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 4759 of 2026

Rai Raj Construction Pvt. Ltd. having its Corporate Office at 601, 6th floor, Lav Kush Tower, Exhibition Road, P.S. Gandhi Maidan, District Patna through its Director Baidya Nath Rai, aged about 53 years, Male, son of Mahendra Rai, Resident of Flat No. 410, Ashiyana Plaza, Budha Marg, P S Kotwali, District Patna, Bihar.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Road Construction Department, Government of Bihar, Patna.
2. The Engineer in Chief-Cum- Additional Commissioner cum Special Secretary, (Works Management), Road Construction Department, Government of Bihar, Patna.
3. The Chief Engineer (North), Road Construction Department, Government of Bihar, Patna.
4. The Executive Engineer, Road Construction Department, Road Division, Rosera, District Samastipur, Bihar.

... .. Respondents

Appearance :

For the Petitioner : Mr. Prabhat Ranjan, Advocate
For the Respondents : Mr. Amish Kumar, AC to AG

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 21-04-2026

Heard learned counsel for the parties.

2. The present writ application has been filed seeking the following reliefs:

(i) For quashing the Notice to Show Cause as contained in Letter No. 1908 dated 17.03.2026 (Annexure P/5), whereby the Engineer-in-Chief-cum-Registering



Authority has called upon the petitioner to submit its reply within 15 days as to why, for the alleged furnishing of incorrect information in the tender process, the petitioner be not blacklisted for a period of ten years in terms of Clause 11(d)(vii) of the Bihar Contractors Registration Rules, 2007 read with Clause 8(4) of Office Order No. 154 contained in Memo No. 5403 dated 18.06.2015;

(ii) For declaration that Office Order No. 154 contained in Memo No. 5403 dated 18.06.2015 (Annexure P/6) does not create any enforceable rights or liabilities, as the same is neither a decision of the State Government nor part of the bidding documents, and has not been published in the Official Gazette;

(iii) For restraining the respondents from taking any coercive action pursuant to the impugned show cause notice during the pendency of the present writ application.

3. The brief facts of the case are that a Notice Inviting Tender No. RCD/Rosera/051/2025-26 dated 23.08.2025 was issued for widening and strengthening of Ilmas Nagar–Balipur Dumra Road. Pursuant thereto, only two bidders participated. The Technical Bid Evaluation Committee initially found the petitioner's bid to be responsive and recommended opening of its financial bid, while rejecting the other bidder. The petitioner was thereafter declared the lowest bidder (L-1).



4. However, subsequently, upon direction for re-evaluation, the Technical Bid Evaluation Committee reviewed its earlier decision and found that the petitioner had furnished incorrect information regarding its existing commitments. Consequently, the petitioner's bid was declared non-responsive, and the Departmental Tender Committee directed re-tendering along with initiation of proceedings against the petitioner.

5. During pendency of the challenge to the said decision in CWJC No. 4769 of 2026, the impugned show cause notice dated 17.03.2026 came to be issued proposing blacklisting of the petitioner.

6. Learned counsel for the petitioner submits that the impugned show-cause Notice is arbitrary, without jurisdiction, and vitiated by serious legal infirmities. It is submitted that the notice is vague, bereft of material particulars, and unsupported by any substantive material. It is further submitted that the impugned Show Cause Notice is vitiated by bias and pre-determination, inasmuch as the Engineer-in-Chief, who has issued the notice, had already participated in the decision dated 26.02.2026 declaring the petitioner's bid non-responsive and recommending action. It is submitted that the authority has thus already formed a conclusive opinion, rendering the opportunity of hearing illusory.



7. It is further submitted that the impugned Show Cause Notice amounts to a post-decisional hearing and that the indication of proposed punishment of blacklisting for ten years demonstrates pre-judgment. Reliance has been placed on *Oryx Fisheries Pvt. Ltd. vs. Union of India & Ors.*(2010) 13 SCC 427, *Union of India & Ors. vs. Sanjay Jethi* (2013) 16 SCC 116, *M/s. Godrej Sara Lee vs. The Excise & Taxation Officer-cum-Assessing Authority & Ors*, and *J. Sri Nisha vs. The Special Director, Adjudicating Authority, Directorate of Enforcement & Anr.*

8. Per contra, learned counsel for the respondents submits that the impugned Show Cause Notice has been issued by the competent authority under the Bihar Contractors Registration Rules, 2007(hereinafter referred to as 2007 Rules). It is submitted that the notice clearly discloses the nature of allegations and affords an opportunity of reply, which the petitioner has chosen not to avail.

9. It is further submitted that the plea of bias is misconceived, as the recommendation is a collective decision of a multi-member committee, and the Engineer-in-Chief has acted in his statutory capacity. Reliance has been placed on *Union of India vs. Coastal Containers Transporters Association* and *Executive Engineer, Bihar State Housing Board vs. Ramesh Kumar Singh.*



10. The limited issue which arises for consideration is whether the impugned Show Cause Notice dated 17.03.2026 suffers from such jurisdictional error, vagueness, absence of material, or pre-determination so as to warrant interference at the pre-decisional stage under Article 226 of the Constitution of India?

11. Upon hearing learned counsel for the parties and perusal of the materials on record, this Court finds that the writ petition has been filed at a premature stage, without the petitioner having availed the opportunity of submitting a reply to the show cause notice.

12. The plea of lack of jurisdiction raised on behalf of the petitioner is found to be wholly misconceived. It is not in dispute that under the Bihar Contractors Registration Rules, 2007, the Engineer-in-Chief is the designated Registering Authority and is vested with the power to pass an order of blacklisting against a contractor. The Rules further mandate that before any such adverse action is taken, the contractor must be afforded an opportunity to show cause. In this backdrop, it necessarily follows that the authority which is competent to pass an order of blacklisting is equally competent to initiate the process leading thereto. The issuance of a show cause notice is not an independent or detached exercise of power, but rather an inseparable and preliminary step



in the decision-making process culminating in blacklisting. Thus, when the statute vests the power of blacklisting in the Engineer-in-Chief and requires a prior opportunity of hearing, the issuance of the show cause notice by the said authority is not only within jurisdiction but is a statutorily mandated procedural step. The contention of the petitioner that the authority lacks jurisdiction to issue the show cause notice, therefore, overlooks the settled principle that the power to decide necessarily carries with it the power to initiate proceedings. The impugned notice, being issued by the competent authority in furtherance of such statutory duty, cannot be said to suffer from any jurisdictional infirmity. The Hon'ble Supreme Court in *Union of India v. Kunisetty Satyanarayana reported in (2006) 12 SCC 28* and *Union of India v. Vicco Laboratories reported in (2007) 13 SCC 270* has consistently held that ordinarily no writ lies against a show cause notice unless it is ex facie without jurisdiction. The relevant part of *Kunisetty Satyanarayana(supra)* reads as follows:

“15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However,



ordinarily the High Court should not interfere in such a matter.”

13. Further, the relevant part of **Vicco Laboratories(supra)** reads as follows:

“31. Normally, the writ court should not interfere at the stage of issuance of show-cause notice by the authorities. In such a case, the parties get ample opportunity to put forth their contentions before the authorities concerned and to satisfy the authorities concerned about the absence of case for proceeding against the person against whom the show-cause notices have been issued. Abstinance from interference at the stage of issuance of show-cause notice in order to relegate the parties to the proceedings before the authorities concerned is the normal rule. However, the said rule is not without exceptions. Where a show-cause notice is issued either without jurisdiction or in an abuse of process of law, certainly in that case, the writ court would not hesitate to interfere even at the stage of issuance of show-cause notice. The interference at the show-cause notice stage should be rare and not in a routine manner. Mere assertion by the writ petitioner that notice was without jurisdiction and/or abuse of process of law would not suffice. It should be prima facie established to be so. Where factual adjudication would be necessary, interference is ruled out.”

14. The submission that the impugned Show Cause Notice is vague or devoid of material particulars also does not



merit acceptance. The notice clearly indicates that the allegation pertains to furnishing incorrect information regarding existing commitments in the bidding process. At this stage, a detailed adjudication is neither required nor expected. The notice sufficiently apprises the petitioner of the nature of allegations. As held in ***Special Director v. Mohd. Ghulam Ghouse reported in (2004) 3 SCC 440***, the Court should be slow to interfere at the stage of show cause notice. The relevant part of the said order reads as follows:

“5 [Ed. : Para 5 corrected vide Corrigendum No. F.3/Ed.B.J./40/2004 dated 2-4-2004] . This Court in a large number of cases has deprecated the practice of the High Courts entertaining writ petitions questioning legality of the show-cause notices stalling enquiries as proposed and retarding investigative process to find actual facts with the participation and in the presence of the parties. Unless the High Court is satisfied that the show-cause notice was totally non est in the eye of the law for absolute want of jurisdiction of the authority to even investigate into facts, writ petitions should not be entertained for the mere asking and as a matter of routine, and the writ petitioner should invariably be directed to respond to the show-cause notice and take all stands highlighted in the writ petition. Whether the show-cause notice was founded on any legal premises, is a jurisdictional issue which can even be urged by the recipient of the notice and such issues also can be adjudicated by the authority issuing the very notice



initially, before the aggrieved could approach the court. Further, when the court passes an interim order it should be careful to see that the statutory functionaries specially and specifically constituted for the purpose are not denuded of powers and authority to initially decide the matter and ensure that ultimate relief which may or may not be finally granted in the writ petition is not accorded to the writ petitioner even at the threshold by the interim protection granted.”

15. The contention that the notice is based on no material is equally premature. The impugned Show Cause Notice has been issued on the basis of findings recorded by the Technical Bid Evaluation Committee and the Departmental Tender Committee. The sufficiency or correctness of such material cannot be gone into at this stage, as the show cause notice is only a step in the decision-making process.

16. The principal contention of bias and pre-determination also does not merit acceptance. While the petitioner has relied upon ***Oryx Fisheries(supra)*** and ***Sanjay Jethi(supra)***, the facts of the present case are clearly distinguishable. In those cases, the show cause notices reflected conclusive findings and a closed mind. In the present case, the impugned notice merely calls upon the petitioner to explain the discrepancies noticed in its bid



and does not record any final determination. The formation of a *prima facie* opinion cannot be equated with pre-judgment.

17. The plea of bias is also without substance. The recommendation for action is a collective decision of a multi-member committee, and the Engineer-in-Chief has acted in his statutory capacity. Mere participation in the earlier process does not establish real likelihood of bias.

18. The contention that the impugned Show Cause Notice amounts to a post-decisional hearing is also untenable. The notice is only an initiation of proceedings and not the culmination thereof. The petitioner has been afforded an opportunity to submit its reply before any adverse action is taken.

19. The contention that the impugned notice reflects pre-determination on account of indication of proposed punishment also does not merit acceptance. The notice merely indicates the nature of allegation and calls upon the petitioner to explain as to why action, including blacklisting for a period of ten years, be not taken in terms of the applicable Rules. Such indication is only for the purpose of putting the petitioner to notice of the possible consequence and cannot be construed as a final determination of guilt or punishment.



20. The decision in ***J. Sri Nisha(supra)*** assumes significance, wherein it has been held that although a show cause notice can be challenged in writ jurisdiction, such interference is permissible only in exceptional cases, namely where the notice is without jurisdiction, reflects a pre-determined mind, or violates principles of natural justice. In the present case, none of these contingencies are attracted. The relevant part of the said order reads as follows:

“32. .. This Court has consistently held that although ordinarily a writ petition against an SCN may not be entertained, however, the said proposition is not an inviolable rule. Interference at the stage of SCN is permissible in exceptional circumstances, such as where the notice suffers from patent lack of jurisdiction, reflects non-application of mind, is issued with a pre-determined or premeditated approach, amounts to an abuse of the process of law, or results in a violation of the principles of natural justice.”

21. In ***Union of India vs. Coastal Containers Transporters Association & Ors.*** (AIR Online 2019 SC 520), it has been held that courts should ordinarily refrain from interfering at the stage of show cause notice when the authority is competent and the proceedings are at a nascent stage. The relevant part of the said order reads as follows:



“19. On the other hand, we find force in the contention of the learned senior Counsel, Sri Radhakrishnan, appearing for the Appellants that the High Court has committed error in entertaining the writ petition Under Article 226 of Constitution of India at the stage of show cause notices. Though there is no bar as such for entertaining the writ petitions at the stage of show cause notice, but it is settled by number of decisions of this Court, where writ petitions can be entertained at the show cause notice stage. Neither it is a case of lack of jurisdiction nor any violation of principles of natural justice is alleged so as to entertain the writ petition at the stage of notice. High Court ought not to have entertained the writ petition, more so, when against the final orders appeal lies to this Court...”

22. Similarly, in *The Executive Engineer, Bihar State Housing Board vs. Ramesh Kumar Singh & Ors. reported in AIR 1996 SC 691*, it has been held that writ jurisdiction should not be invoked to stall statutory proceedings at the threshold. The relevant part of the said order reads as follows:

“10. We are concerned in this case, with the entertainment of the writ petition against a show-cause notice issued by a competent statutory authority. It should be borne in mind that there is no attack against the vires of the statutory provisions governing the matter. No question of infringement of any fundamental right guaranteed by the Constitution is alleged or proved. It cannot be said that Ext. P-4 notice is ex facie a ‘nullity’ or totally “without jurisdiction” in the traditional sense



of that expression — that is to say, that even the commencement or initiation of the proceedings, on the face of it and without anything more, is totally unauthorised. In such a case, for entertaining a writ petition under Article 226 of the Constitution of India against a show-cause notice, at that stage, it should be shown that the authority has no power or jurisdiction, to enter upon the enquiry in question. In all other cases, it is only appropriate that the party should avail of the alternate remedy and show cause against the same before the authority concerned and take up the objection regarding jurisdiction also, then. In the event of an adverse decision, it will certainly be open to him to assail the same either in appeal or revision, as the case may be, or in appropriate cases, by invoking the jurisdiction under Article 226 of the Constitution of India.”

23. In view of the aforesaid discussion, this Court is of the considered opinion that the impugned show cause notice does not suffer from any infirmity warranting interference under Article 226 of the Constitution of India at this stage.

24. Accordingly, we find no merit in the present writ petition, and the same is dismissed.

25. However, it is made clear that the petitioner is at liberty to submit its reply to the show cause notice, and the competent authority shall consider the same in accordance with law, without being prejudiced by any observations made herein.



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

(Sudhir Singh, J.)

I agree.
(Shailendra Singh, J.)

(Shailendra Singh, J.)

Gaurav Kumar/-

AFR/NAFR	A.F.R.
CAV DATE	03.04.2026
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