

(2012) 05 JH CK 0008

In the Jharkhand High Court

Case No : Writ Petition (C) No. 5794 of 2011

Arunaditya Projects and Mineral

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 18-05-2012

Acts Referred:

Citation : (2012) 05 JH CK 0008

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : Manoj Tandon, for the Appellant;

Final Decision : Allowed

Judgement

Narendra Nath Tiwari, J.—In this writ petition, the petitioner has challenged the order dated 7.9.2011 passed by the Executive Engineer, Road Construction Department, Ranchi Division, Ranchi, whereby the petitioner's work contract has been cancelled making several allegations against it. The grievance of the petitioner is that no notice or opportunity of representation/hearing was given to the petitioner before sudden cancellation of petitioner's work contract.

2. It has been submitted that the respondents have also gone to the extent of mentioning in the impugned order that they have considered the petitioner's reply but it was not found satisfactory. The petitioner emphatically denied to have filed any such reply.

3. When this writ petition was heard on 4.5.2012, the same point was argued by the petitioner. However, the respondents had taken specific ground that the petitioner had given reply and the same was considered and that the respondents shall bring on record the reply filed by the petitioner. Time, as prayed for, was granted to the respondents for that purpose.

4. Today, the respondents changed their version and submitted that no such reply was filed by the petitioner and the order was passed on the basis of some

previous replies available on record.

5. The said statement clearly goes to show that the petitioner was not given any notice or opportunity of representation before cancellation of its agreement and the order was passed in violation of the principle of natural justice.

6. It is well settled that nobody can be penalized informing the reason and giving opportunity of meeting the same and without complying with the principle of natural justice.

7. Though paragraph-2 of the impugned order clearly speaks of consideration of the petitioner's reply, the petitioner emphatically denied to have given any such reply. The respondents failed to bring on record the alleged reply filed or the alleged notice on record, though time was granted to the respondents on 4.5.2012 on their assurance that they shall bring the same on record.

8. Considering the above, this writ petition is allowed. The impugned letter no.1495 dated 7.9.2011, issued by the Executive Engineer, Road Construction Department, Ranchi Division, Ranchi is quashed. However, the instant order shall not be an impediment in proceeding the respondents in accordance with law.