



Serial No. 02
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 19 of 2025

Date of Decision: 20.05.2025

Shri. Santosh Majumder
S/o (L) Nagendra Majumder
R/o A D Nagar, M B Tilla,
Road No. 5, Agartala,
West Tripura, PIN: 799003

:::Petitioner

-Vs-

1.The Food Corporation of India represented by
its Chairman cum Managing Director, Barakhamba
Road, New Delhi - 110001

2.Regional Director, Food Corporation of India,
Regional Office (NEF) Region, Shillong,
PIN - 793008

3.General Manager, Food Corporation of India,
Regional Office (NEF) Region, Shillong,
PIN - 793008

:::Respondents

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge



Appearance:

For the Petitioner/Appellant(s) : Mr. B. Chakraborty, Adv.
Mr. S.D. Upadhaya, Adv.
Ms. A. Synrem, Adv.

For the Respondent(s) : Mr. B.K. Singh, Adv.

i)	Whether approved for reporting in Law journals etc.:	Yes/No
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ii)	Whether approved for publication in press:	Yes/No
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Oral:

1. The petitioner before this Court was awarded a transportation contract from Rail Head (RH) Jirania to Food Storage Godown (FSD) Arundhutinagar Tripura, and vice-versa for 2(two) years from 18.02.2024 to 17.02.2026. However, the FCI respondent issued an NIT dated 19.07.2024, for the same work, whereafter, on the same being put to challenge before this Court by way of WP(C) No. 288 and 289 of 2024, the NIT was withdrawn and so were the writ petitions. The petitioner is now aggrieved with the fresh issuance of an NIT dated 16.01.2025, for the same transportation work where the petitioner has a number of months remaining that is till 17.02.2026, to complete the work.

2. Mr. B. Chakraborty, learned counsel for the petitioner has submitted that the floating of the impugned NIT dated 16.01.2025, for handling and transport contract from Rail Head (RH) Jirania to Food Storage Godown



(FSD) Arundhutinagar Tripura, during the subsistence of the transportation contract with the petitioner is arbitrary and illegal, as it amounts to the cancellation or termination of contract on totally extraneous grounds. It is further submitted that the petitioner had also been settled with the work of handling food grains at Arundhutinagar, which is to expire on 31.05.2025, and on all accounts the respondent FCI should have extended this engagement also of handling to 17.02.2026, before floating of the composite impugned tender, as has been done for both transportation and handling. Learned counsel submits that the cancellation not being on the basis of non-fulfillment or violation of the terms and conditions of the contract, but based totally on an arbitrary decision, the same is hit by Article 14, and as such, it is a fit case for the exercise of powers of this Court under Article 226 of the Constitution of India, to protect the vested rights of the petitioner. In support of his submission, the learned counsel has placed reliance on the judgment in the case of ***Subodh Kumar Singh Rathour vs. Chief Executive Officer & Ors.*** reported in ***2024 SCC OnLine SC 1682***.

3. Mr. B.K. Singh, learned counsel for the FCI respondent in his reply has referred to the averments made in the affidavit and has submitted that the petitioner while praying for quashing and setting aside the impugned NIT dated 16.01.2025, has himself participated in the same, and as such, he



cannot be allowed to approbate or reprobate at the same time. He further submitted that the floating of the NIT was necessitated, inasmuch as, the standing instructions of the Corporation is that invitation of tenders is to be carried out 6(six) months prior to the expiry of regular contract, and as the handling contract of the petitioner at FSD, Arundhutinagar is expiring on 31.05.2025, the impugned NIT had been floated.

4. The learned counsel has also submitted that the decision to float the composite contract is a matter of policy, inasmuch as, it has been done to bring about operational feasibility, cost effectiveness and ensure competitive rates for execution of works. As such, he submits, considering the nearing expiry of the handling contract at Arundhutinagar, the composite NIT had been issued, wherein the petitioner had also participated. In the said tender process, he submits, the petitioner did not emerge as the L1 bidder, and has reiterated the point that having participated in the same, the petitioner is now barred from challenging the said NIT. The learned counsel has also stressed the element of public interest involved in the matter, as it deals with foodgrains, and in support of his submissions has relied upon the following judgments.

(i) *M/s. New Bihar Biri Leaves Co. & Ors. vs. State of Bihar & Ors.* reported in (1981) 1 SCC 537



- (ii) *M/s K.P. Singh & Anr. vs. Union of India & Ors. decided on 27.12.2024 in WP(C) No. 1540/2024 by High Court of Jammu & Kashmir and Ladkh.*
- (iii) *Ramesh Ch Saha vs. Anil Joshi* reported in (2013) 11 SCC 309.

5. I have heard the learned counsel for the parties. To put the case in a brief perspective, the only issue in the considered view of this Court, to be effectively adjudicated is whether the writ petitioner can maintain a challenge to the impugned NIT dated 16.01.2025, after having participated in the same. No doubt, as per the facts of the case the petitioner had acquired a legal right by contract for transportation of foodgrains between the two stations in question for a period which would expire only on 17.02.2026. The termination or cancellation of the remaining tenure of the subsisting transportation contract of the petitioner, which would have resulted on the conclusion of the tender process, pursuant to the NIT dated 16.01.2025, would therefore amount to an arbitrary exercise of power by the respondent FCI, as the same was not due to the violation of any terms and conditions of the existing contract by the petitioner.

6. However, on the other hand, what cannot be ignored or overlooked is the glaring fact of the petitioner's participation in the impugned NIT dated 16.01.2025, which this Court is certain, that had the writ petitioner



succeeded, the challenge to the impugned NIT, would not be existing today. This Court has also noted from the materials placed that in the impugned NIT dated 16.01.2025, the bid submission end date was fixed on 06.02.2025, and the writ petition was filed on 04.02.2025, and moved on 06.02.2025, whereafter, on 10.02.2025, an interim order was passed by this Court directing that the tender dated 16.01.2025, be not acted upon by the respondents till the next date. The petitioner in the course of the proceedings before this Court, however chose not to reveal the fact that he had participated in the impugned tender process, and the same has come to light only after the affidavit filed by the respondent FCI was on record, wherein this fact was stated.

7. In the backdrop of these facts and circumstances, the contention that one who approbates cannot reprobate, rings true in the instant case, inasmuch as, the petitioner having willingly participated in the impugned tender process, and on not being successful, cannot now turn around and challenge the impugned NIT or the tender process.

8. The judgments placed by the learned counsel for the respondent FCI being pronouncements of settled law, in view of the brief discussion above and the circumstances of the case, are not elaborated upon.



9. Accordingly, on this short point itself, the writ petition is not entertained and is dismissed, leaving the petitioner to seek civil remedy for other reliefs.

Judge

Meghalaya
20.05.2025
"D.Thabab-PS"