

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8603 of 2014

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Pankaj Kumar S/o Sri Rameshwar Prasad Singh Resident of Village- Sihma, P.S-
Matihani, District- Begusarai.

.... Petitioner

Versus

1. The State of Bihar, through the District Magistrate, Begusarai.
2. The District Magistrate, Begusarai.
3. District Magistrate- cum- Chairman, District Transport Committee, Begusarai.
4. Bihar State Food & Civil Supply Corporation Ltd., Sone Bhawan, 5th Floor, Bir Chand Patel Path, Patna- 800001 through its Managing Director.
5. The Managing Director, Bihar State Food & Civil Supply Corporation Ltd., Sone Bhawan, 5th Floor, Bir Chand Patel Path, Patna-800001.
6. The Special Executive Officer (T.P.D.S and Transportation), Bihar State Food & Civil Supply Corporation Ltd., Sone Bhawan, 5th Floor, Bir Chand Patel, Path, Patna- 800001.
7. The Chief of Procurement, Bihar State Food & Civil Supply Corporation Ltd., Sone Bhawan, 5th floor, Bir Chand Patel Path, Patna- 800001.
8. The District Manager, Bihar State Food & Civil Supply Corporation Ltd., Begusarai.
9. Manoj Kumar (Name of the father not known to the petitioner) Resident of Village- Ratanpur, Ward no. 21, District- Begusarai.
10. Ankush Agarwal S/o Late Arun Kumar Agrawal, Resident of Ujjiyarpur, P.S.- Ujjiyarpur, District- Samastipur

.... Respondents

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Appearance :

For the Petitioner : Mr. Sanjeet Kumar, Advocate
For the Resp. BSFC : Mr. Shailendra Kumar Singh, Advocate
For the State : Mr. Prabhat Kumar Singh, SC 12.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 12-07-2016

Heard learned counsel for the petitioner and learned counsel for the respondent Corporation.

2. The present writ petition has been filed for quashing of the letter dated 31.03.2014 issued under the signature of Special Executive Officer (T.P.D.S. and Transportation), Bihar State Food & Civil Supplies Corporation

Ltd. ("the Corporation" hereinafter) whereby the appointment of the petitioner as Transport-cum-Handling agent for the revenue District of Begusarai has not been considered.

3. The short facts according to the petitioner are that pursuant to a tender notice for appointment of Transport-cum-Handling agent in different revenue Districts in the State of Bihar for transporting food grains etc., the petitioner applied for his appointment in relation to Begusarai. In the meeting of the District Transport Committee held on 21.01.2014, the petitioner along with one Arun Kumar Agrawal as well as Manoj Kumar (Respondent no. 9) were found to be successful bidders and accordingly their names were recommended for the appointment for the revenue District of Begusarai in terms of letter No. 249 dated 23.01.2014 (Annexure-4).

4. Learned counsel for the petitioner submits that despite the recommendation of the District Transport Committee, the petitioner's name was not considered and instead the respondent Corporation approved the names of Manoj Kumar (Respondent no. 9) and Ankush Agrawal (Respondent no. 10). It is stated that Ankush Agrawal happens to be the son of Arun Kumar Agrawal, the latter having earlier been approved by the District Transport Committee, but who had expired later on. Learned counsel for the petitioner invites attention to the impugned order dated 31.03.2014 according to which the reasons given for not considering the petitioner for the appointment in question are wholly arbitrary and extraneous.

The first reason given for non-consideration is the pendency of a criminal case against the petitioner, which is contrary to the settled law as reiterated in CWJC No. 13263 of 2008 (Pawan Kumar and another vs. The

State of Bihar and others) wherein it has been observed as follows :-

"It is well established that mere pendency of criminal case does not lead to any conclusion of guilt. On mere allegation by a party, if a person is to be deprived from his right to business it would amount to a punishment with irreparable injury, for if after five years the allegations are found to be false, the loss suffered, as a consequence of being deprived of business ,cannot be compensated by any one in any manner. Thus, a person would be punished irreparably even on a false acquisition."

The other reason assigned in the impugned order relates to non-completion of work by the petitioner during the period when he was working as Transport-cum-Handling agent for the revenue District of Munger. Learned counsel for the petitioner invites attention to the form of tender (Annexure-8), according to Clause 5 whereof a company/firm which has been blacklisted is disqualified from participating in a tender. In the instant case the petitioner was not blacklisted for non-completion of the work in question and hence the reasons for non-selection of the petitioner are *de hors* the conditions of the contract.

5. Learned counsel for the respondent Corporation on the other hand has sought to support the impugned order, reiterating the reasons stated therein.

6. Despite service of notice on respondent nos. 9 and 10, neither has entered appearance.

7. Having heard the parties and on consideration of the materials on record, this Court finds considerable merit in the submissions of the petitioner. In view of the well settled proposition of law, pendency of the criminal case against the petitioner could not have been made a ground for disentitling him for the appointment in question. Similarly, no order for

blacklisting has been passed against the petitioner as on the date of the impugned order and thus the petitioner could not have been disentitled on this ground either. Learned counsel for the respondent Corporation has not also been able to explain the circumstances under which the name of Ankush Agrawal, son of late Arun Kumar Agrawal has been approved for appointment in absence of any such recommendation of the District Transport Committee in his favour.

8. In the above circumstances, the impugned order dated 31.03.2014 in so far as the candidature of the petitioner has not been considered is hereby set aside. The respondent Corporation shall now proceed in the matter in accordance with law in the light of the aforesaid observations and directions contained hereinabove.

9. The writ petition stands disposed of.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	21.07.2016
Transmission Date	-