

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 18879 of 2015

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M/s Anil Transport Agency through its Proprietor Anil Kumar, S/o Late Ramdas Prasad, resident of Mohalla Bich Bazar, P.O. & P.S.- Sohsarai, District- Nalanda.

.... Petitioner/s

Versus

1. The Bihar State Food & Civil Supplies Corporation Ltd. through its Managing Director, Khadya Bhawan, Daroga Rai Path, R. Block, Road No.-2, Patna- 800001.
2. The Managing Director, Bihar State Food & Civil Supplies Corporation Ltd., Khadya Bhawan, Daroga Rai Path, R. Block, Road No.-2, Patna- 800001.
3. The Chief of Administration, Bihar State Food & Civil Supplies Corporation Ltd., Khadya Bhawan, Daroga Rai Path, R. Block, Road No.-2, Patna- 800001.
4. The Chief of Procurement, Bihar State Food & Civil Supplies Corporation Ltd., Khadya Bhawan, Daroga Rai Path, R. Block, Road No.-2, Patna- 800001.
5. The District Manager, Bihar State Food & Civil Supplies Corporation Ltd., Madhubani, Khadi Gram Udyog Road, Near L.I.C. Campus, Madhubani.
6. The District Manager, Bihar State Food & Civil Supplies Corporation Ltd., Nalanda, P.O. & P.S.- Nalanda, District- Nalanda.
7. The District Manager, Bihar State Food & Civil Supplies Corporation Ltd., Jamui, District- Jamui.
8. The District Manager, Bihar State Food & Civil Supplies Corporation Ltd., Vaishali, District- Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjeet Choubey & Mr. Surya Narayan Yadav, Advocates.
For the B.S.F.C.	:	Mr. Shailendra Kumar Singh, Advocates.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 16-02-2016

Heard learned counsel for the parties.

The writ petition has been filed seeking quashing of office order contained in Memo No. 13660 dated 04.11.2015 issued by respondent no. 2 by which he has set aside the appointment of the petitioner for the District of Madhubani and Nalanda and the agreements entered into have been cancelled and security money as well as Bank guarantee for both the districts have been directed to be forfeited and further the petitioner has been debarred for three years from participating in any tender

floated by the respondent Bihar State Food and Civil Supplies Corporation Ltd. (hereinafter referred to as the 'Corporation'). The further relief is for quashing of the consequential orders.

Learned counsel for the petitioner submits that the impugned order has been passed only on the basis of some alleged irregularities committed in the District of Vaishali and Jamui where also the petitioner had applied for his appointment as Transporting-cum-Handling-cum-Delivery Agent. It is submitted that as per the allegation, the petitioner while applying at Vaishali had submitted a forged attested copy by the Executive Magistrate, Nalanda and for applying for the said work in the district of Jamui, the amount in the Bank guarantee was manipulated to read Rs. 10 lakhs instead of Rs. 5 lakhs, which are totally erroneous for the reason that after receiving a show cause, the petitioner had replied to the District Managers of the Corporation in those districts and the matter was in fact closed and for more than one and a half years, no action was taken by the Corporation and suddenly the matter has again been raked up. It is submitted that though in the districts of Vaishali and Jamui where the said irregularities have been said to have been committed by the petitioner, but his show cause having been found satisfactory, no penal action was taken against him and in both the districts the Bank guarantee has been returned and encashed by the petitioner and only the earnest money remains. It is stated that the earnest money deposited has not been returned as the tender itself has not been finalized in the two

districts. Learned counsel submits that at the instance of a rival tenderer, the matter has been revived and the authorities have wrongly proceeded against the petitioner and issued the impugned order.

Learned counsel for the Corporation submits that the petitioner has not been proceeded against or action taken out of any ill will or bias but because of the illegality committed by him to the extent of submitting forged and fabricated documents. It is submitted that from the explanation in the show cause submitted by the petitioner with regard to the aforesaid allegations earlier, the facts would clearly indicate that such stand of the petitioner was unacceptable. He submits that as per his initial show cause submitted on 13.02.2014, he had stated before the District Manager, Vaishali that on 20.01.2014 during inspection he had found that a third party namely Ajay Kumar was looking through the papers submitted by the petitioner which was not permissible and he had also objected to the authority with regard to the same and he was the person who had changed the documents and thus the petitioner was not responsible for any forgery or submission of a forged document. It is submitted that if the same is correct then whatever manipulation or change of documents happened, may be by a third person namely Ajay Kumar while looking through the papers submitted by the petitioner which was not permissible and he had also objected to the authority with regard to the same, and thus the petitioner was not responsible for any forgery or submission of a forged



document, it is submitted that if the same is correct then whatever manipulation or change of document happened was on 20.01.2014 whereas the petitioner by letter issued to him by the District Manager, Vaishali was called upon in a meeting to be held on 07.04.2014 for verification of the documents and according to him he had participated in the same and him not objecting to any wrong or forged document not submitted by him being on record, that too after submission of his show cause on 13.02.2014 clearly indicates that the documents which were on record with the authorities for which he is being held accountable were not those documents which were not submitted by him as no such plea was taken. It is submitted that thus there is an acceptance that whatever documents were available with the authorities on 07.04.2014, which was also inspected by the petitioner and no objection having been taken by him that any document was not submitted by him or rather changed by some other person, the defence of the petitioner falls flat. It is further submitted that with regard to the manipulation/interpolation in the Bank guarantee, the only explanation is that as the matter related to the period of 2012-13 and no objection being raised by the respondents the allegation was baseless, is also not tenable as he has not replied as to how the interpolation/manipulation was done in the Bank guarantee. Learned counsel submits that the lame plea that no penal action has yet been taken against the petitioner at Vaishali or Jamui cannot be held as giving him a clean chit for the reason that the signature of the Executive Magistrate on the attestation of

a document submitted by the petitioner having been verified and found to be forged and fabricated as also the interpolation on the Bank guarantee and the said fact not having been satisfactorily explained by the petitioner, the authorities were well within their right to pass the order of punishment in terms of the impugned order as a person having committed fraud cannot be permitted to take part in future tenders. It is submitted that in fact the authorities have been kind to him by only debarring him only for the next three years whereas for such offence he deserves to be blacklisted for a much longer period which has not been done.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is in agreement with the submissions of learned counsel for the Corporation. The petitioner has not been able to convince the Court that the allegations levelled against him are either misplaced or there is any justifiable or valid explanation for the same.

In the said background the Court does not find any irregularity in the orders impugned and accordingly, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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