

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7793 of 2017

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Pintu Kumar Son of Krishna Prasad Resident of Village- Mukhotganj, P.O. Gaya,
P.S. Gaya Kotwali, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Food and Civil Supply Department, Government of Bihar, New Secretariat, Patna.
3. Bihar State Food & Civil Supply Corporation Ltd., Sone Bhawan, 5th Floor, Bir Chand Patel Path, Patna -800 011 through its Managing Director.
4. The Managing Director, Bihar State Food & Civil Supply Corporation Ltd., Sone Bhawan, 5th Floor, Bir Chand Patel Path, Patna -800 011
5. The District Manager, Bihar State Food & Civil Supply Corporation Ltd., Aurangabad.
6. The District Magistrate, Aurangabad.
7. The District Supply Officer, Aurangabad.
8. The Block Supply Officer, Aurangabad.
9. The Block Supply Officer, Barun, Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeet Kumar, Adv.
For the State : Mr. Upendra Pratap Singh, AC to SC-4
For the BSFC : Mr. Shailendra Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 18-10-2017

Heard learned counsel for the petitioner and counsel for the State.

In this writ application, the petitioner has filed I.A. No. 7644 of 2017, annexed the order dated 19.4.2017 passed by the District Transport Committee, whereby and whereunder, the petitioner has been blacklisted for five years, EMD amount has been forfeited as well as the agreement has been terminated, communicated by the District Transport Manager, S.F.C.

Instead of deciding the case on merit, the present case is



disposed of on technical ground as while passing the impugned order, the District Transport Committee has not taken any effort to consider the show-cause of the petitioner but took decision.

As per allegation against the petitioner, he had lifted the grain on 22.3.2017 but, he deviated the same for black-marketing. He was caught red handed while black-marketing, for that, a First Information Report has been lodged which the petitioner is facing, on the very next day i.e. on 23.3.2017, a show-cause was issued to the petitioner pointing out the deviation and black-marketing was being committed by him but, on the same day i.e. on 23.3.2017, the District Manager, B.S.F.C. passed the order of punishment but, on the next day vide letter no. 421 dated 24.3.2017 had withdrawn the same.

The action of the District Manager is completely illegal as on the same day, without giving proper notice, has passed the order. It is not in dispute the show-cause notice was served upon the petitioner which was replied by the petitioner but, the District Transport Committee vide letter dated 19.4.2017 terminated the agreement and blacklisted the petitioner and vide Memo No. 545 dated 19.4.2017 (Annexure-F) terminated the agreement and blacklisted four five years.

Learned counsel for the petitioner has challenged on two grounds i.e. the District Transport Committee was obliged to at least examine the show-cause filed by the petitioner as also without giving



notice of proposed punishment, passed the order of blacklisting the petitioner as well as terminated the agreement, placed reliance in the case of *Gorkha Security Services Vs. Govt. of NCT of Delhi* reported in *2014 (4) PLJR SC 386* in paragraph nos. 19, 20 and 27, the Hon’ble Supreme Court has elaborately explained in what manner the punishment would be inflicted.

It appears that the order which has been passed does not specify the proposed punishment, inasmuch as, the order of the District Transport Committee does not reflect consideration of his show-cause but wrongly recorded the finding against him.

In that view of the matter, both the impugned order as contained in Memo No. 409 dated 23.3.2017 and the proceeding of the District Transport Committee contained in Memo No. 545 dated 19.4.2017 are quashed with a liberty to the respondents if so advised may take action in accordance with law.

With the aforementioned observation, this writ application is allowed to the extent indicated above.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.11.2017
Transmission Date	NA

