

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 2711 of 2018

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Vivekanand Jha, son of Sri Ram Sagar Jha resident of Village- Gowpur, P.O. Bhagwatpur, P.S. Sarai Ranjan, District- Samastipur.

.... Petitioner

Versus

1. The Bihar State Food & Civil Supplies Corporation Ltd. , Khadh Bhawan, Daroga Rai Path, R Block, Road No. 2, Patna - 1, through its Managing Director.
2. The Managing Director, Bihar State Food & Civil Supplies Corporation Ltd., Khaadh Bhawan, Daroga Rai Path, R. Block, Road No. 2, Patna - 1.
3. The Deputy General Manager (Transport), Corporation Headquarters, Bihar State Food & Civil Supplies Corporation Ltd., Patna.
4. The District Manager, Bihar State Food & Civil Supplies Corporation Ltd., Samastipur.

.... Respondents

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Appearance:

For the Petitioner : Mr. Anil Kumar Sinha, Advocate
Mr. Ankit Katriar, Advocate

For the Respondents : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 09-04-2018

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

I.A. No. 1366 of 2018

I.A. No. 1548 of 2018

I.A. No. 2009 of 2018

2. These interlocutory applications have variously been
filed for quashing the notices dated 08.02.2018, 10.02.2018,
15.02.2018 and 21.02.2018; for quashing the impugned order no.
2438 dated 12.03.2018; and for restraining the respondents from
proceeding in the NIT dated 06.01.2018 or in any other similar



tender.

3. Having regard to the nature of the prayer, I.A. No. 1366 of 2018, I.A. No. 1548 of 2018 and I.A. No. 2009 of 2018 are allowed and the same are treated as forming part of the writ petition.

CWJC No. 2711 of 2018

4. The main writ petition has been filed for quashing the letter no. 1363 dated 08.02.2018 (Annexure-25) issued by the Deputy General Manager (Transport), Corporation Headquarters, Bihar State Food & Civil Supplies Corporation Ltd., Patna (Respondent no. 3) by which, while supplying a copy of the enquiry report dated 24.06.2016, time of less than 24 hours was granted and the date of hearing was fixed on the very next day; and for connected reliefs.

5. Learned counsel for the petitioner invites attention to the order of this Court dated 16.01.2018 passed in CWJC No. 13722 of 2017 wherein after taking note that the relevant enquiry report had not been supplied to the petitioner along with the show cause notice prior to passing of the impugned order dated 11.09.2017 by the respondent-Corporation, the writ petition was disposed of, *inter alia*, in the following terms—

“8. In view of the petitioner’s submission that his trucks fitted with GPS have been lying idle since September, 2017 and on account of which he is incurring substantial loss everyday. It is expected that the respondents will take a



fresh decision in the matter expeditiously and in any event preferably within a period of four weeks from the date of receipt/production of a copy of this judgment. Needless to say the petitioner shall extend all cooperation in having the matter disposed of.”

6. Learned counsel for the petitioner submits that the respondent-Corporation appeared to be sitting idle despite the aforesaid order of this Court dated 16.01.2018 and hence a contempt application in MJC No. 408 of 2018 had to be preferred on 07.02.2018, which finally galvanized the respondents into issuing the impugned notice the next very day ie on 08.02.2018 enclosing a copy of the enquiry report. However, only one day's time was granted and the petitioner was required to respond to the said notice on 09.02.2018 itself. Successive notices were issued, each time granting not more than two days on each occasion for compliance. It is therefore, submitted that the respondents have acted arbitrarily in not granting sufficient opportunity of being heard, and even defaulted the order of this Court by passing orders beyond the stipulated time frame.

7. Learned counsel for the respondent Corporation on the other hand, vehemently opposes the writ petition submitting that the petitioner did not respond to the impugned notice and did not seek time but instead filed a contempt petition as well as the present writ petition even before the expiry of the stipulated time



for passing fresh orders in view of the orders of this Court dated 16.01.2018 aforesaid.

8. Having heard the parties and on consideration of the materials on record, this Court is of the view that the Corporation cannot be said to have granted adequate opportunity of hearing to the petitioner as not more than 48 hours was granted for response by the petitioner on any occasion. Significantly, as many as four show cause notices have been issued between 08.02.2018 and 21.02.2018, but the Corporation has not explained why a single notice with sufficient opportunity could not have been issued to the petitioner. Significantly, the final impugned order dated 12.03.2018 has been passed about three weeks after issuance of the notice dated 21.02.2018 which suggests that the Corporation was in fact not in any urgency to finally decide the matter. This Court is, therefore, of the view that the said order dated 12.03.2018 has been passed in violation of the principles of natural justice, and thus cannot be sustained.

9. In the above view of the matter, the impugned order dated 12.03.2018 (Annexure-30) is hereby quashed and the matter is remanded to the Managing Director, Bihar State Food & Civil Supplies Corporation Limited (Respondent No. 2) with a direction to pass orders afresh in accordance with law.

10. As mutually consented by the parties, the petitioner



and/or his representative shall appear before the respondent no. 2 on 19.04.2018 between 4.30 p.m. and 5.30 p.m. The petitioner shall furnish his show cause reply in course of personal hearing. The respondent no. 2 shall pass final orders within a week thereafter.

11. The writ petition stands disposed of with the aforesaid observations and directions.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.04.2018
Transmission Date	NA

