

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2163 of 2018

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M/s Swadesh Parking and Towing Services having place of business at 660/500, Harnichak, Anishabad, Patna- 800002 through it's Power of attorney holder namely Padmasree Harish, Wife of Harish Balasubramani, resident of 660/500, Harnichak, Anishabad, Patna- 800002.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Govt. of Bihar, Patna.
2. The Secretary Department of Transport, Govt. of Bihar, Patna.
3. The Joint Secretary cum Regional Transport Authority, Patna Division, Patna.
4. The Divisional Commissioner, Patna.
5. The I.G. Police Patna Zone, Patna.
6. The Senior Superintendent of Police, Patna.
7. The Superintendent of Police, (Central), Patna.
8. The Superintendent of Police, (Traffic), Patna.
9. The District Transport Officer, Patna.
10. The Deputy Superintendent of Police Admin. Zonal I.G. Office, Patna.
11. The Deputy Superintendent of Police-II Traffic cum Nodal Officer Jam Buster, Operations, Patna.

.... Respondents

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Appearance :

For the Petitioner	: Mr. Gautam Kumar Kejriwal, Mr. Mohit Agrawal, Advocates
For the Respondents	: Mr. Rakesh Prabhat, AC to SC21

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 02-04-2018

Heard learned counsel for the petitioner as well as
learned counsel for the respondents.

2. The present writ petition has been filed for the following reliefs—

“(a) For issuance of a writ in the nature of certiorari for quashing of the office order dt. 21.01.18 issued vide memo no. 34/go. issued by the respondent no. 4 and 5 for being violative of the principles of natural justice and also unreasonable arbitrary and unsustainable in the eye of law;



(b) For issuance of a writ in the nature of certiorari for quashing of the letter no. 173/go dt. 25.01.18 issued by the respondent no. 8 being consequential to the office order dt. 21.01.18 issued vide memo no. 34/go.;

(c) For issuance of a direction upon the respondents concerned to allow the petitioner to continue to perform the work assigned under contract which has been awarded to the petitioner by the respondent no. 8;

(d) For a declaration that in absence of any opportunity granted to the petitioner for presentation of it's case by any of the respondents at any stage of the decision making process the impugned decision taken and consequential letters issued are liable to be quashed by this Hon'ble Court for being violative of the principles of natural justice and also the fundamental rights guaranteed to the petitioner under article 14 and 19(1)(g) of the Constitution of India;

(e) For grant of any other relief or reliefs to which the petitioner is found entitled to in the facts and circumstances of the case.

3. Learned counsel for the petitioner raises a short plea to question the validity of the orders dated 21.01.2018 and 25.01.2018, the cumulative effect of which has resulted in the stoppage of the jam buster services being provided by the petitioner. It is submitted that the direction for such stoppage has been given even though the petitioner was entitled to carry on the jam buster services for a period of three years after being directed by the Superintendent of Police, (Traffic), Patna (respondent no. 8) to commence the work. It is



submitted that the abrupt stoppage of the petitioner's jam buster services has resulted in adverse civil consequences for the petitioner. The action of the authorities in doing so without a prior show cause notice or supply of the relevant enquiry report is wholly arbitrary and illegal.

4. Learned counsel for the respondents on the basis of the averments made in the counter affidavit submits that the impugned action has been taken pursuant to the joint order of the Commissioner, Patna and the Inspector General of Police, Patna Zone, Patna dated 21.01.2018, which is wholly in accordance with law. There were serious complaints against the petitioner which were enquired into by a team constituted for the purpose and it was found that the petitioner had not fulfilled the terms and conditions prescribed in the tenders. Further, the services of the petitioner were found to be not satisfactory on the touchstone of public interest.

5. I have heard learned counsel for the parties and have given my careful consideration to the materials available on record. Without going into the question whether or not the nature of the jam buster services involving law and order could at all be delegated to a private party in the first place, I am of the view that the prayer for quashing the joint office-order dated 21.01.2018 needs no interference as this order does not contain any decision adverse to the petitioner and, inter alia, merely directs the Superintendent of Police (Traffic), Patna to initiate proceedings for stopping the services of the petitioner.



6. However, the impugned order dated 25.01.2018 passed by the Superintendent of Police (Traffic), Patna cannot be sustained. The petitioner’s stand that no show cause notice was issued to it has not been denied in the counter affidavit. The impugned order must therefore be held as violative of the principles of Natural Justice. Accordingly, the same is quashed with liberty to the Superintendent of Police (Traffic), Patna to issue appropriate show cause to the petitioner along with a copy of the enquiry report and any other documents as may be proposed to be relied upon, before passing fresh orders in this regard, expeditiously.

7. In the facts and circumstances of the case, it is directed that the operation of the petitioner’s services shall remain in abeyance until fresh orders are passed by respondent no 8 as aforesaid.

8. The writ petition stands disposed of.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	03.04.2018
Transmission Date	N.A.

