

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13722 of 2017

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Vivekanand Jha, aged about 42 years, S/o 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 Chief 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
Mr. Ankit Katriar, Advocates

For the Respondents : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 16-01-2018

I.A. No. 322 of 2018

The interlocutory application has been filed with the prayer for amendment of the main writ petition for quashing the (i) impugned order bearing no. 9355 dated 11.09.2017, (ii) the subsequent letter no. 11994 dated 25.11.2017 and (iii) the notice-inviting-tender dated 06.01.2018 issued by the respondent corporation; and for adding paragraphs 23A and 23B which are enumerated in paragraph 3 of the interlocutory application.

“23A”. That the petitioner respectfully states that, after the termination as transportation-cum-handling contractor (main) and his subsequent blacklisting for 3 years vide annexure – 18 to this writ petition, the



respondent corporation has forfeited the petitioner’s security deposit as well as his bank guarantee vide letter no. 11994 dated 25.11.2017. That when the termination and blacklisting of the petitioner is itself arbitrary and bad in law, the respondent corporation cannot illegally forfeit/seize the petitioner’s security deposit as well as his bank guarantee. It is, therefore, humbly submitted by the petitioner that the same is fit to be quashed by this Hon’ble Court in exercise of its extraordinary writ jurisdiction.

“23B”. That the petitioner further submits that, thereafter, the respondent corporation has published a notice-inviting-tender in a leading Hindi daily, dated 06.01.2018, for appointment of a new transportation-cum-handling contractor (main) for the district of Samastipur (i.e. in place of the petitioner), with the following milestone dates:

	<i>Dates for sale of tender</i>	<i>Date of pre-bid meeting</i>	<i>Date of submission of tender</i>	<i>Date of opening of tender</i>
<i>Transportation-cum-Handling Contractor (Main)</i>	<i>18.01.2018 to 25.01.2018</i>	<i>27.1.2018</i>	<i>09.02.2018 to 13.02.2018 till 2 p.m.</i>	<i>13.02.2018 at 3 p.m.</i>

That, for reasons mentioned in the writ petition, the notice-inviting-tender dated 06.01.2018 which has been issued subsequent to the filing of this writ petition, if allowed to remain operational and run its course till the appointment of a new contractor, would defeat the very cause of the petitioner and would practically render the writ-petition infructuous. It is, therefore, humbly submitted by the petitioner that the same is fit to be quashed by this Hon’ble Court in exercise of its extraordinary writ jurisdiction. The petitioner humbly requests that this Hon’ble Court may refrain the respondent corporation from creating a third-party right.”



2. Having regard to the nature of the prayer, the interlocutory application is allowed and the same shall be treated to form part of the writ petition.

CWJC No. 13722 of 2017

3. The main writ petition has been filed for quashing the order bearing no. 9355 dated 11.09.2017 (as contained in annexure - 18) issued by respondent no.2, whereby (i) the transportation contract of the petitioner has been terminated arbitrarily, (ii) the petitioner has been blacklisted by the respondent corporation for a period of 3 years and has been restrained from participating in any future tender, and (iii) directions have been given to take steps for filling the consequent vacancy within three days.

4. Learned counsel for the petitioner makes a short submission to challenge the impugned order dated 11.09.2017 (Annexure-18) as well as letter no. 11994 dated 25.11.2017 (Annexure- 20) to the effect that the same have been passed without complying with the specific directions of this Court requiring supply of a copy of the enquiry report along with the show cause notice to the petitioner in terms of the judgment dated 06.09.2016 in CWJC No. 11041 of 2016 and analogous case (Annexure-15).

5. Learned counsel for the State as well as respondent-Corporation appear and have been heard.

6. Having regard to the nature of the grievance of the



petitioner, this Court is satisfied that non-supply of the enquiry report to the petitioner has resulted in violation of natural justice and thus the decision making process stands vitiated. The impugned order dated 11.09.2017 (Annexure-18) as well as letter no. 11994 dated 25.11.2017 (Annexure-20) are hereby quashed and the matter is remanded to the Managing Director, Bihar state Food & Civil Supplies Corporation Limited, Patna (respondent no. 2) for taking decision afresh in the matter after supplying a copy of the enquiry report to the petitioner and granting an opportunity of hearing in accordance with law.

7. It is made clear that in case the stand of the petitioner denying receipt of the enquiry report prior to order of termination being passed is found to be incorrect, the respondents shall be at liberty to approach this Court for recall of this judgment.

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 every day, 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.

9. The writ petition stands allowed as above.

(Vikash Jain, J)



B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.01.2018
Transmission Date	N.A.

