

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20153 of 2018

=====

Pramod Kumar Pandey, Son of Narendra Panday, Resident of Village- Kapiya
Nizamat, P.O. &P.S.-Maharajganj, District-Siwan

... .. Petitioner/s

Versus

1.The State Of Bihar through the Principal Secretary, Food and Civil Supplies
Department, Government of Bihar.
2.Managing Director, Bihar State Food and Civil Supplies Corporation
Limited.
3.District Magistrate, Siwan, Government of Bihar
4.General Manager, Bihar State Food and Civil Supplies Corporation Limited
5.District Manager (Siwan) Bihar State Food Corporation
6.Deputy General Manager (Transportation) Bihar State Food Corporation,
Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. P.K. Sahi, Senior Adv. Mr.Rajiv Kumar Singh, Adv.
For the Respondent/s	:	Mr.Upendra Pratap Singh, AC to SC4.
For the BSFC	:	Mr. Alok Ranjan, JC to Mr. Nirmal Kr,Adv.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 16-01-2019 Heard Shri P.K. Sahi, learned Senior Advocate

representing the petitioner and Shri Alok Ranjan, learned

Assisting Counsel to Mr. Nirmal Kumar, Advocate representing

the Bihar State Food and Civil Supplies Corporation Limited

(hereinafter referred to as the Corporation).

With the consent of the parties the writ application has

been taken for final disposal.

This writ application has been preferred for the

following reliefs:-

*“(i)That this is an application on
behalf of the petitioner for issuance of a writ
in the nature of certiorari or any other*



appropriate writ(s) Order(s) Direction(s) to quash Letter number 9473 dated 12.09.2018 issued by the Deputy General Manager (Transportation), Bihar State Food and Civil Supplies Corporation Limited as the said letter has been issued in arbitrary, illegal, prejudice, Malafide and without application of mind.

(ii) For issuance of a writ in the nature of mandamus to direct the Respondent Authorities to extend/Renew the contract for the transportation of food grains/essential commodities within a district or from other districts as they fulfill all the criteria and requirement for the renewal/extension of the contract.

(iii) Any other relief/reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case”.

Mr. Sahi, learned Senior Counsel representing the petitioner submits that in terms of the notice inviting tender floated in the year, 2015, the petitioner participated for his empanelment/selection as Transportation and Handling Agent of the Corporation. It is specifically submitted that the tender document contained a Clause whereunder on satisfactory completion of work during the initial three years period, the



Transportation and Handling Agents were entitled to get considered for extension of their contract period by another two years. Learned Senior Counsel submits that the petitioner executed first agreement on 20.03.2015 for a period of three years. The agreement in Clause 14 reads as under:-

“14. The agreement shall remain in operation for the period of three years from the date of execution of the agreement or allotment of work. This may be extended by mutual consent for a further period of two years or may be terminated earlier than the period mentioned above on behalf of the First Party in case of non-lifting of grains, sugar, edible oil etc. During the specified period if there is any breach of any of the terms of the agreement by the second party, the agreement may be terminated and blacklisted as well as debarred for future transportation work, security deposits will be forfeited and Bank guarantee of 10 lakhs (ten lac only) will be utilized and encashed at once by the First Party. The responsibility of the second party shall not cease with the termination of the agreement unless he has redelivered the grains, sugar, edible oils and etc, entrusted to him and rendered complete accounts there of to the satisfaction of the First Party.

The terms of agreements and contract



for transporting and handling work can be extended for another period of two years on the recommendations of District Transport Committee, if the work of the Second Party is found satisfactory and the recommendation of the District Transport Committee, reaches Corporation Head quarter, two months before expiry of agreement and as per guide lines issued by the corporation from time to time in the regard.”

It is then submitted that in terms of Clause 14 when the District Transport Committee recommended the name of the petitioner company for extension of contract period by another two years, the same has been refused by the Head Office vide Letter No. 9473 dated 12.09.2018 as contained in Annexure ‘13’ to the writ application. It is pointed out that the Head Office has refused to extend the contract on the ground that the work of the petitioner was not satisfactory, therefore, he could not be given benefit of extension.

Learned Senior Counsel has drawn the attention of this Court towards the policy decision as contained in Letter No. 10367 dated 17.08.2016 (Annexure-3) and Annexures 7, 8 and 9 of the writ application which are the correspondences between the petitioner and the District Manager of the Corporation and then the correspondence between the District Manager and the



Deputy General Manager (Transport) of the Corporation.

It is submitted that perusal of these annexures would show that there was no need of sending the recommendation to the head office after 17.08.2016 and at one point of time there was an allegation that the vehicle provided by the petitioner had gone offline and on explanation being sought from the petitioner he had explained certain issues of network which was accepted by the District Manager of the Corporation. Learned Senior Counsel submits that save and except the explanation of the nature present in Annexure '7' to the writ application at no point of time any other issue was raised against the working of the petitioner. Thus, it is submitted that the Head Office could not have rejected the recommendation of the District Transport Committee for extension of the contract period of the petitioner. It is further submitted that in any case, the District Transport Committee was itself the competent body to take a decision as regards extension of the contract period and their recommendation was not required to be sent to the Head Office.

On the other hand, learned counsel representing the Corporation submits that in terms of the agreement the District Transport Committee was required to send its recommendation to the Head Office. Learned counsel submits that the



recommendation of the District Transport Committee was not accepted by the Head Office in view of the fact that on an earlier occasion the petitioner was called upon to show cause for certain negligence on his part in rendering his dues. Learned counsel submits that in terms of the policy decision of the Corporation now E-Tender has been floated and steps have been taken for selection/empanelment of Transportation and Handling Agent afresh.

Having heard learned Senior Counsel for the petitioner and learned counsel representing the Corporation, this Court finds that in Annexure '3' to the writ application which is in the nature of policy decision dated 17.08.2016 it is clearly stated that the matters relating to appointment of Transportation and Handling Agent would be within the domain of the District Transport Committee and there would be no need to send its recommendation to the Head Office of the Corporation.

Unfortunately, the notice inviting tender and the tender documents on the basis of which the petitioner had participated and was declared successful leading to execution of agreement dated 20.03.2015 is not available on the record, therefore, this Court is unable to examine as to whether the notice inviting tender or the tender documents at the relevant



time contained any stipulation with regard to extension of the contract period and the extensions of contract as envisaged in the agreement had its genesis in the tender documents. In the opinion of this Court, if the tender document contained a Clause whereunder extension of contract period was to be allowed subject to satisfactory completion of work by the Agent for the agreement period and the same forms part of the agreement, the District Transport Committee would be fully competent to take a decision with regard to extension of contract period.

The contention of learned counsel for the Corporation that the District Transport Committee would be competent only to consider the matters relating to appointment and not the extension of contract period is wholly misconceived inasmuch as, in the opinion of this Court if the matter relating to appointment of the Agent is within the domain of the District Transport Committee, it will be the same Committee which will be competent to look into the question of extension of contract period as the claim of the petitioner to get extension of contract has its basis in the initial selection/appointment of the Agent.

This Court finds that the District Transport Committee being the competent authority would not be required to send its recommendation to the Head Office of the



Corporation. It is for the Committee to look into the materials which may be made available by the Corporation along with the request of the petitioner to consider whether the petitioner deserves extension of the contract period. The Court, therefore, directs the District Transport Committee, Siwan to look into the request of the petitioner for extension of the contract period, if permissible in terms of the notice inviting tender and the tendered documents under which the petitioner had been declared successful leading to execution of agreement dated 20.03.2015. The Court has been informed that a fresh tender has already been issued by the Corporation, therefore, the District Transport Committee is directed to complete its exercise and take a decision with regard to the request of the petitioner for extension of time within a period of thirty days from the date of receipt/production of a copy of this order.

The notice inviting E-Tender for selection and empanelment of Main & Door Step Delivery Transporting Contractors for Transportation of Food Grains for the District of Siwan published in the newspaper 'Hindi Daily Hindustan' on 02.12.2018 shall abide by the decision of the District Transport Committee in the present case.

The writ application as well as the I.A. No. 9120 of



2018 are disposed off in terms indicated hereinabove.

(Rajeev Ranjan Prasad, J)

R.R.Ojha/-

U			
---	--	--	--

