

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12738 of 2019

Md. Aurangzeb Hayat (Male, aged bout 30 years) S/o Md. Kalam Resident of
Supaul Bazar, P.O. and P.S.-Biraul, District-Darbhangha.

... .. Petitioner

Versus

1. The State of Bihar through the District Collector, Darbhanga, P.O. and P.S.-Darbhanga, District-Darbhangha
2. The Bihar State Food and Civil Supplies Corporation Ltd. through the Managing Director, Khadya Bhawan, Daroga Rai Path, Patna, District-Patna
3. The Managing Director Bihar State Food and Civil Supplies Corporation Ltd., Khadya Bhawan, Daroga Rai Path, Patna, District-Patna
4. The Deputy General Manager Administration, Bihar State Food and Civil Supplies Corporation Ltd., Khadya Bhawan, Daroga Rai Path, Patna, District-Patna
5. The Deputy General Manager Targeted Public Distribution System, Bihar State Food and Civil Supplies Corporation Ltd., Khadya Bhawan, Daroga Rai Path, Patna, District-Patna
6. The District Manager Bihar State Food and Civil Supplies Corporation Ltd., Darbhanga, P.O. and P.S.-Darbhanga, District-Darbhangha
7. The Assistant Godown Manager Bihar State Food and Civil Supplies Corporation Ltd., Benipur, Darbhanga, P.O. and P.S.-Darbhanga, District-Darbhangha
8. The Block Supply Officer Benipur, Darbhanga, P.O. and P.S.-Darbhanga, District-Darbhangha.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Ram Shankar Pradhan, Sr. Advocate Mr. Jainandra Kumar, Advocate Mr. Ranjeet Choubey, Advocate
For the Respondents	:	Ms. Namrata Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 19-09-2019 Heard learned Senior Counsel for the petitioner

and learned counsel representing the Bihar State Food &

Civil Supplies Corporation Limited. No one appears for

the State.



Petitioner in the present case moved before this court initially for quashing of the show cause notice contained in letter no. 698 dated 17.05.2019 as contained in Annexure 'P-7' to the writ application issued by respondent no. 6 calling upon the petitioner to show cause within 24 hours as to why punitive action against him be not taken and he should not be blacklisted. The petitioner also prayed for quashing of the office order dated 22.05.2019 (Annexure 'P-9') by which the respondent no. 6 intimated the petitioner that the District Magistrate, Darbhanga has ordered for cancellation of tender of the petitioner.

During pendency of the writ application, I.A. No. 01 of 2019 has been filed to allow the petitioner to challenge the order contained in Memo No. 823 dated 08.06.2019 by which the District Manager of the Corporation has issued office order for blacklisting the petitioner for a period of five years and also forfeited the bank guarantee and security deposit of the petitioner.



Annexure 'P-9' and 'P-11' to the Interlocutory Application are the impugned order.

On 03.09.2019 when the writ application was taken up for consideration, this court passed the following order:

"Although a counter affidavit has been filed on behalf of the Bihar State Food and Civil Supplies Corporation Ltd., learned counsel for the Corporation submits that she may be allowed to file a supplementary counter affidavit to place on record the materials showing that the Corporation had requested the Officer-in-Charge of the concerned Police Station for lodging a separate FIR against the petitioner then the Officer-in-Charge of the Police Station had informed that the petitioner has been made co-accused. This is required because learned Senior Counsel representing the petitioner has emphatically submitted before this Court that this petitioner is not an accused in the case. Further the Corporation shall be required to answer as to why Annexure 'P-11' be not quashed on the solitary ground that it does not show any consideration to the show cause submitted by the petitioner.



Let this case be listed on 19th September, 2019 under the same heading to enable learned counsel for the Corporation to answer the aforesaid issue.

In the meantime operation of the impugned order as contained in Annexure 'P-11' with regard to blacklisting of the petitioner shall remained stayed."

Pursuant to the aforesaid order a supplementary counter affidavit has been brought on record. A perusal of the supplementary counter affidavit would show that till date the petitioner is neither an accused in Bahera P.S. Case No. 219 of 2019 nor any fresh case has been registered against him. This court had called for specific information in this regard from the Corporation. The only information contained in the supplementary counter affidavit is that the Assistant Manager of the Corporation, Benipur had written an application dated 17.05.2019 to S.H.O. Bahera Police Station alleging that as per the S.I.O. received 15.48 quintals less rice was delivered to Shri Gangasagar Jha, P.D.S. Dealer, he, therefore, requested the concerned



S.H.O. to lodge a separate F.I.R. There is however no statement that any separate F.I.R. has been lodged against the petitioner.

In it's order dated 03.09.2019 this court had called upon the Corporation to answer as to why Annexure 'P-11' be not quashed on the solitary ground and it does not show any consideration to the show cause submitted by the petitioner. The supplementary counter affidavit is totally silent on the said explanation called for by this court.

A conjoint reading of Annexure 'P-9' and 'P-11' would show that the District Manager of the Corporation was directed by the District Magistrate to cancel the engagement of the petitioner, debar him for a period of five years and recover penalty @ five times more than the market value of the rice. The only role played by the District Manager is that he has issued office order in terms of the dictates of the District Magistrate in haste. Annexure 'P-11' nowhere considers the show cause



submitted by the petitioner as contained in Annexure 'P-8' to the writ application. The show cause notice (Annexure 'P-7') was issued by the District Manager of the Corporation, therefore, the show cause was submitted by the petitioner before him but Annexure 'P-11' shows that the District Manager completely abdicated his power and has acted as per direction of the District Magistrate.

It is also evident from perusal of Annexure 'P-9' which is an office order contained in memo no. 716 dated 22.05.2019 issued by the District Manager of the Corporation, Darbhanga that the agreement of the petitioner was also terminated without looking into the show cause submitted by the petitioner. The show cause (Annexure 'P-8') contains an endorsement showing it's receipt in the office of District Manager on 20.05.2019 whereas the impugned order Annexure 'P-9' has been passed on 22.05.2019, but there is no consideration of the show cause of the petitioner.



The impugned order as contained in Annexure 'P-9' and Annexure 'P-11' are therefore wholly illegal, arbitrary and suffers from violation of principles of natural justice.

For the aforesaid reasons, Annexure 'P-9' to the writ application as well as Annexure 'P-11' to the I.A. No. 01 of 2019 are quashed. Until the final decision is taken by the District Manager of the Corporation, status of the petitioner prior to passing of the impugned orders shall stand restored.

The District Manager of the Corporation at Darbhanga shall consider the show cause of the petitioner and pass an appropriate reasoned order in accordance with law.

The writ application as well as Interlocutory Application are, thus, allowed.

(Rajeev Ranjan Prasad, J)

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