

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17693 of 2019

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1. Bhagwan Jha S/o Sri Mahesh Nath Jha, Resident of Mohalla- Kabraghat, Darbhanga, P.S.- L.N.M.U. Campus, District- Darbhanga.
 2. Navin Kumar S/o Sri Leela Nand Jha, Resident of Manigachhi, P.S.- Manigachhi, Distt.- Darbhanga
 3. Sujeet Kumar Gupta S/o Sri Ramji Prasad Gupta, Resident of Village- Dillipatti, P.S.- Jainagar, Distt.- Madhubani

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Bihar State Food and Civil Supplies Department, Govt. of Bihar, Patna.
2. The Managing Director, Bihar State Food and Civil Supplies Department, Govt. of Bihar, Patna.
3. The Deputy Managing Director Bihar State Food and Civil Supplies Department, Govt. of Bihar, Patna.
4. The District Magistrate, Madhubani.
5. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Madhubani, Distt.- Madhubani.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Kripa Nand Jha, Advocate
For the State	:	Mr.Upendra Pratap Singh, AC to SC-4
For the BSFC	:	Mr.Siddharth Harsh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 22-10-2019 Heard learned counsel for the petitioners and learned counsel representing the Bihar State Food and Civil Supplies Corporation (in short 'Corporation') as also learned counsel for the State.

The petitioners who are presently working as transportation and handling agent in the Corporation are challenging certain terms and conditions of the notice inviting



tender issued by the Corporation vide Annexure '2' to the writ application being NIT No. 927 dated 10.07.2019.

Learned counsel for the petitioners submits that under Clause '9' of the NIT the rate of transportation per quintal has been fixed at Rs. 28/- which is contrary to the previous rate notified by the Corporation as well as to the rate notified under the National Food Security Rules, 2013 as revised up to the year 2015. Learned counsel also submits that under the Door Step Delivery Scheme, 2016 the transporter-cum-handling agent are being paid at the rate of Rs. 38.40/- per quintal for transporting food-grains from block SFC to different fair price shops.

It is his submission that since the very object of door step delivery scheme is being frustrated, the NIT is fit to be quashed.

On the contrary, learned counsel for the Corporation submits that the petitioners have no *locus standi* to file this writ application and in fact what has been done by filing this writ application is an attempt to somehow stall the ongoing tender process under which the new transportation-cum-handling agent are to be empanelled. Learned counsel submits that the tenure of the petitioners as transportation-cum-handling agent is going to expire in December, 2019. The petitioners have not participated



in the tender and have directly moved this Court to challenge the NIT by filing this writ application.

Learned counsel further submits that on a bare perusal of the relevant provision of the Door Step Delivery Scheme, it would appear that the rate Rs. 38.40/- per quintal is fixed for transportation of foodgrains from the godown of the Food Corporation of India to the godown of the State Food Corporation. It is submitted that if the NIT for transportation of food grains from the godown of State Food Corporation to the licensed fair price shop within the district of Madhubani has been fixed Rs. 28/- as the lowest amount below which no tenderer can quote, the petitioners cannot have any complaint against the conditions of tender. It is further submitted that a tender condition is always in the domain of the employer and may be questioned only on limited grounds, however, in the present case the petitioners who have not even participated in the tender are not able to make out any ground for interference.

It is submitted that in the writ application the petitioners have neither made any statement nor have enclosed any document to show that prior to filing of the writ application they had ever represented against the tender condition before the



Corporation.

Learned counsel for the State has supported the arguments made on behalf of the Corporation.

Having heard learned counsel for the petitioners, learned counsel for the State and the Corporation, this Court is of the considered opinion that the petitioners whose tenure as transportation and handling agent is going to expire in December, 2019 and who have not even participated in the tender as also that they have not brought on record any document supported by statements on oath that prior to filing of this writ application they had ever represented against the tender condition before the competent authority of the Corporation, have no *locus standi* to maintain this writ application.

The writ application has been filed only to stall the on-going tender process and this Court declines to entertain it.

The writ application stands dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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