

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.389 of 2018

In
Civil Writ Jurisdiction Case No.15929 of 2017

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1. Md. Masharur Faizi Son of Md. Sakil Ahmed, Resident of Village-Gariya, P.S.-Bisfi, District-Madhubani.
 2. Satish Kumar Son of Shyam Sunder Sahu, Resident of Village-Khirmu, P.S.-Keoti, District-Dharbhanga.

... .. Appellant/s

Versus

1. The Food and Consumer Protection Department through The Principal Secretary, Government of Bihar, Patna.
2. The State of Bihar through District Magistrate, District-Madhubani.
3. The Bihar State Food and Civil Supplies Corporation Limited, through its M.D., Bihar at Patna.
4. The Chairman-Cum-Collector, District Transport Committee, Madhubani, District-Madhubani.
5. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Madhubani, District-Madhubani.
6. The Chief of Finance, Bihar State Food and Civil Supplies Corporation Limited, Bihar at Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Sumeet Kumar Singh
For the Respondent/s	:	Mr. S. Raza Ahmad, AAG-5
		Mr. Alok Ranjan, A.C. to AAG-5
		Mr. Niraj Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-01-2019

Heard Shri Sumeet Kumar Singh, learned counsel
for the appellants, Shri Alok Ranjan, Assistant Counsel to
Additional Advocate General No.5 for the State and Shri Niraj
Kumar for the Bihar State Food and Civil Supplies Corporation
Limited (hereinafter referred to as “BSFC”).



2. The appellants are claiming rights to carry out the work of transportation of the BSFC on the strength of the decision dated 29th May, 2017 taken by the District Transportation Committee. It is the contention of the learned counsel for the appellants that they are the selected transporters from amongst the panel that was prepared for the same yet they have not been given work and hence they filed the writ petition which has been dismissed.

3. The present appeal questions the correctness of the judgment of the learned Single Judge on the ground that the learned Single Judge has completely overlooked selective treatment of the respondents by not extending the benefit of the work of transportation to the appellants in spite of the fact that they were from amongst the panel already prepared by the respondents themselves. Since no valid reason has been shown not to engage the services of the appellants, the dismissal order deserves to be set aside and a direction should be issued to the respondents for allowing the appellants to continue to get themselves engaged for transporting the essential commodities to the satisfaction of the BSFC.

4. For this the learned counsel for the appellants has also relied on a Division Bench judgment of this Court dated



17.12.2018 in L.P.A. No. 388 of 2018 to urge that the case of the appellants stands on a better footing inasmuch as the complaints that were filed against them they were found to be eligible and the complaints stood discharged.

5. On the issue as to whether the work still be granted to the appellants it is the contention of the learned counsel for the respondents that the period of the contract as envisaged originally was one year and in the circumstances the appellants cannot be granted any relief now. For this the respondents have relied on the contents of Paragraph 9 of the counter affidavit filed in the writ petition where it was stated that a notice inviting tender has been issued afresh.

6. Responding to the said contention learned counsel for the appellants submits that the issuance of the fresh notice was under challenge yet even otherwise the said notice inviting tenders has nowhere been processed till now so as to award any fresh contract to any new empaneled persons.

In the above circumstances and keeping in view the judgment in L.P.A. No. 388 of 2018 we partly allow this appeal also to the said extent with liberty to the appellants to approach the Managing Director of the Corporation along with a certified copy of this order who shall call upon a report about the status



of the fresh notices alleged to have been issued and in the event no fresh engagements have been made then in that event the claim of the appellants shall also be considered on the same terms as directed in the judgment dated 17.12.2018 in L.P.A. No. 388 of 2018.

7. The Letters Patent Appeal stands disposed of accordingly.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-Jagdish

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CAV DATE	
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