

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5655 of 2020

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Dhirendra Prasad, Son of Manki Saw resident of NO. 1 Gumti, Near Railway Cinema, Makhlot Ganj, Gauraiya Asthan, P.S. - Kotwali, P.O.- Railway Station, Gaya -823001. Petitioner.

Versus

1. The State of Bihar through the District Magistrate, Gaya.
2. The District Transport Committee, through its President-cum-District Magistrate, Collectorate, Gaya.
3. The Deputy Development Commissioner, Collectorate, Gaya.
4. The District Transport Officer, District Transport Office, Gaya.
5. The Deputy Collector, Food and Civil Supply, Collectorate, Gaya.
6. Bihar State Food and Civil Supply Corporation Limited, through its District Manager, Gaya.
7. The District Manager, Bihar State Food and Civil Supply Corporation Limited, Gaya.

... .. Respondents.

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Appearance :

or the Petitioner	:	Mr. Y.V. Giri, Senior Advocate.
		Mr. Rashid Izhar, Advocate.
For the Respondent No.6 :		Mr. Ranjan Kumar Srivastava, Advocate.
For the State	:	Mr. Ravi Verma, JC to GA-4.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 14-05-2020

This case has been posted before me for hearing through video-conferencing, under the orders of Hon'ble the Chief Justice, in view of Nation passing through lock down as an aftermath of the outbreak of COVID-19 pandemic.

Heard Mr. Y.V. Giri, learned Senior Counsel assisted by Mr. Rashid Izhar for the petitioner, Mr. Ranjan Kumar Srivastava, learned counsel for the Bihar State Food & Civil Supply Corporation Limited (respondent no.6) and Mr. Ravi



Verma learned Junior Counsel to learned GA-4 for the State.

Learned counsel for the petitioner undertakes to remove all the defects, as pointed out by the office, within one week of normal functioning of the work after the lockdown, failing which, the office is directed to place the matter before the Bench for appropriate order.

By way of filing the present writ application, the petitioner has prayed, *inter alia*, for quashing of the order dated 14.04.2020 passed by the District Magistrate-cum-Collector, Gaya (respondent no.2), as contained in Annexure-10 to the writ application, whereby without issuing a show cause notice and without following the terms of the agreement, the agency of the petitioner as Transporter-cum-Handling and Delivery Agent (DSD) for Targeted Public Distribution System (TPDS) has been cancelled and order of blacklisting has been passed and for other ancillary reliefs.

Mr. Y.V. Giri, learned Senior Counsel, appearing on behalf of the petitioner, made three fold submissions. Firstly, he submits that the impugned order dated 14.04.2020 passed by the District Magistrate-cum-Collector, Gaya, as aforesaid, has been passed by taking recourse to the provisions, as contemplated under Section 51 (b), and 57 of the Disaster



Management Act, 2005, as the same has been passed without any authority of law and the respondent no.2 has overstepped his authority. There was no legal order issued for complying with the direction for the additional requisition under Pradhan Mantri Garib Kalyan Anna Yojna (PMGKAY) and non-compliance of the alleged verbal instruction cannot be construed as violation of lawful order having no legal force. Secondly, there was no violation of the terms and conditions of the agreement under which the petitioner was appointed as agent (DSD) of TPDS. Learned Senior Counsel further submits that the order of blacklisting and termination was passed by a common order without issuing any show cause notice and without affording opportunity of hearing to the petitioner. Thus, he submits that the impugned order dated 14.04.2020 has been passed in breach of principles of natural justice. Lastly, he draws the attention of the Court to Clause-17 (iv) of the agreement contending that the Managing Director of the Bihar State Food and Civil Supplies Corporation Limited is the only competent authority to terminate the agreement or pass any order of blacklisting after providing a reasonable opportunity of hearing and, if this Court is not inclined to stay the operation of the impugned order, it would have a cascading effect on the



distribution of the essential commodities and food-grains, among the needy and marginal sections of the society.

It appears from the cause title of this writ application that the Managing Director of the Bihar State Food and Civil Supplies Corporation Limited has not been arrayed as a party respondent.

Learned counsel for the petitioner is directed to array the Managing Director of the Bihar State Food and Civil Supplies Corporation Limited as respondent no.8 by filing a supplementary affidavit through e-mail within a week. If such a petition is filed, the office is directed to add the Managing Director of the Bihar State Food and Civil Supplies Corporation Limited as respondent no.8 in the writ application.

In view of the submissions made by learned Senior Counsel for the petitioner and with consent of learned counsel for the respondents, this writ application is disposed of by granting a liberty to the petitioner to file a detailed representation before the Managing Director of the Bihar State Food and Civil Supplies Corporation Limited (respondent no.8) raising his all the issues available to him under law including the exercise of jurisdiction by the District Magistrate and respondent no.8 would pass a reasoned and speaking order after



giving opportunity of personal hearing to the petitioner. The entire exercise must be completed within three weeks from the date of receipt/production of a copy of this order before him. It is, however, made clear that respondent no.8 would direct the petitioner to file an affidavit before commencing of the proceeding before him in the light of the order that the petitioner has already complied the direction of filing supplementary affidavit impleading him as respondent no.8.

It goes without saying that respondent no.8 will be solely responsible for non-compliance of the order passed by this Court within time, as aforesaid.

With the above observation and direction, this writ application stands disposed of.

(Anjani Kumar Sharan, J.)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.05.2020
Transmission Date	NA

