

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6165 of 2020

Ashok Kumar Son of Shiv Shankar Sah, Proprietor of M/s Ashok Enterprises,
Resident of Village and P.O.-Daud Chhapra, P.S.-Minapur, District-
Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar at Patna.
2. The Principal Secretary, Food and Consumer Protection Department through its Principal Secretary, Bihar at Patna.
3. The Bihar State Food and Civil Supplies Corporation through its Managing Director, Bihar at Patna.
4. The Managing Director, Bihar State Food and Civil Supplies Corporation, Bihar at Patna.
5. The Chairman-cum-District Magistrate, District Transport Committee, Muzaffarpur, District Muzaffarpur.
6. The District Magistrate-cum-Collector, Muzaffarpur, District Muzaffarpur.
7. The District Development Commissioner-cum-Deputy Chairman, District Transport Committee, Muzaffarpur, District Muzaffarpur.
8. The Additional Collector (Revenue)-cum-Member, District Transport Committee, Muzaffarpur, District Muzaffarpur.
9. The District Transport Officer-cum-Member, Muzaffarpur, District Muzaffarpur.
10. The District Manager-cum-Secretary, District Transport Committee, Muzaffarpur, District Muzaffarpur.
11. The District Manager, Muzaffarpur, District Muzaffarpur.

... .. Respondents

Appearance :

For the Petitioner	:	Mr.P.K.Sahi, Sr. Advocate
		Mr. Satyendra Prasad Singh, Advocate
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 18-06-2020

Pursuant to the order dated 10.06.2020, a proper Vakalatnama has been filed on behalf of the petitioner.

2. This matter has been taken up for hearing through video conference. Learned counsel for the petitioner



undertakes that all defects pointed out by the stamp reporter shall be removed, and compliance with the conditions of the notices of this Court with regard to acceptance of e-filing shall be made, without delay immediately after the lockdown ends, and in any event within one month thereof. Learned counsel for the respondent-BSFC states that he has no objection in this regard and the matter be taken up on merits in view of the stated urgency.

3. The following reliefs as formulated by the petitioner have been claimed in the writ petition-

“i) That the present writ application is being filed in the nature of certiorari for quashing the letter dated 26.05.2020 bearing letter no. 898 issued by the Bihar State Food and Civil Supplies Corporation, Muzaffarpur headed by the Chairman, District Transport Committee, Muzaffarpur and other people by which the petitioner has been blacklisted for one year and the bank guarantee and other money which has been paid by the petitioner is forfeited and the NIT bearing No. 1798 dated 28.12.2019 has been cancelled on the ground that the petitioner has not been show caused, the petitioner has furnished all the details and submitted his paper for 35 vehicles as per the NIT and the BSFC is forcing the petitioner to work for the entire District contrary to the NIT and now cancelled the NIT;

ii) That the present writ application is being filed in the nature of mandamus for a direction to the District Transport Committee, Muzaffarpur, District Manager, BSFC, Muzaffarpur and the Managing



Director, BSFC, Patna to give the work order for Door Step Delivery Agent (Transporter) in relation to NIT No. 1798 dated 28.12.2019 to the petitioner has been a successful tenderer and qualified in the technical bid and financial bid and also furnished 35 vehicles and other details of the vehicles as per the NIT within a reasonable period of time;

iii) For any other relief/reliefs for which the petitioner is entitled for."

4. Mr. P.K. Sahi, learned Senior Counsel appearing on behalf of the petitioner submits that the petitioner has been blacklisted for one year, bank guarantee and other money are directed to be forfeited and the NIT bearing No. 1798 dated 28.12.2019 has been cancelled by the impugned order dated 26.05.2020. It is submitted that such action of the respondents is wholly arbitrary and illegal as being in utter violation of the principles of natural justice.

5. Learned counsel appearing for the respondent-BSFC invites reference to paras 8 and 9 of the counter affidavit to point out that the petitioner never came forward to enter into an agreement and as such the question of blacklisting the petitioner or forfeiture of the bank guarantee or other money did not arise. It is evident from the impugned order itself that the petitioner has merely been debarred from participating in any tender, not that he has been blacklisted, for one year. It is further stated that complaints against the petitioner were received from other bidders to the effect that the petitioner was a BPL Card holder and received PDS food grains up to April, 2020. On the request of the District Manager, BSFC, the Block Development Officer, Minapur has submitted a



report for further action in the matter.

6. Having heard the parties and on consideration of the materials on record, it would appear that the impugned action has been taken against the petitioner without issuance of prior show cause notice. Learned counsel for respondent BSFC has not shown otherwise. This has therefore resulted in violation of the principles of natural justice, which vitiates the impugned order and the same is accordingly set aside. The matter is remanded to the Chairman, District Transport Committee, Muzaffarpur to pass fresh orders after issuance of proper show cause notice to the petitioner and after hearing all concerned parties, in accordance with law, within a period of eight weeks hereof.

7. At this stage, learned counsel for the respondent-BSFC states that fresh tender has since been issued. It is made clear that any action taken pursuant to such fresh tender shall abide by the final decision of the District Transport Committee as above.

8. It is also made clear that in view of the ongoing lockdown and Covid-19 pandemic, any correspondence between the parties may be made through email and that the concerned authority shall be at liberty to hear the petitioner through video conference. To enable the same, the petitioner shall furnish his mobile number and e-mail ID on the email address of learned Advocate General not later than by Tuesday, i.e. 23.06.2020, for onward transmission to the concerned authority.

9. The writ petition stands disposed of with the aforesaid observations and directions.

10. Office shall ensure that all defects have been removed and compliance with the notices of this Court has been



made, within the stipulated time as provided in para 2
hereinabove.

(Vikash Jain, J)

Chandran/-

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	19.06.2020
Transmission Date	-

