

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14538 of 2019

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Ram Uday Singh, S/o Late Ram Pratap Singh Resident of Village-Paspura, PO Paspura, PS Muffasil, Dist.-Begusarai

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supply Corporation Khadya Bhawan, Daroga Rai Path, R. Block, Road No.2, Patna through its Managing Director.
2. The Managing Director, The Bihar State Food and Civil Supply Corporation, Khadya Bhawan, Daroga Rai Path, R. Block, Road No.2, Patna
3. The Chief of Claim, The Bihar State Food and Civil Supply Corporation, Khadya Bhawan, Daroga Rai Path, R. Block, Road No.2, Patna
4. The Senior Deputy Chief of Claim, The Bihar State Food and Civil Supply Corporation, Khadya Bhawan, Daroga Rai Path, R. Block, Road No.2, Patna
5. The District Manager, Bihar State Food and Civil Supply Corporation Ltd. Munger.
6. The Assistant Manager, The Bihar State Food and Civil Supply Corporation Ltd., CMR Godown, Tarapur, Dist. Munger.
7. The Assistant Manager-cum-Incharge, Upliftment, TPDS Godown, Bihar State Food and Civil Supply Corporation Ltd. Munger
8. The Deputy Chief of Computer, The Bihar State Food and Civil Supply Corporation, Khadya Bhawan, Daroga Rai Path, R. Block, Road, 2, Patna
9. The Deputy Chief Transportation, The Bihar State Food and Civil Supply Corporation, Khadya Bhawan, Daroga Rai Path, R. Block, Road, 2, Patna
10. The District Manager, Munger.
11. The Sub-Divisional Officer, Tarapur, Munger
12. Block Supply Officer, Tarapur, Munger

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeet Kumar, Advocate
		Mr. Aditya Dev, Advocate
For the Respondent/s	:	Mr. Upendra Pratap Singh, AC to SC-4
For the BSFC	:	Mr. Harish Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 17-01-2020

Heard the learned counsel for the parties.



The petitioner, a transporter enlisted with the respondent / corporation, has challenged the order dated 21.05.2019 issued under the signature of the Managing Director, Bihar State Food and Civil Supply Corporation Ltd., whereby he has been black-listed for three years for having attempted to raise false bill for the expenses incurred by him in transporting foodgrains from CMR Godown, Tarapur to TPDS Godown, Tarapur.

From the perusal of the records, it appears that because of such false billing by the petitioner, his license was cancelled and a decision was taken to recover the bill amount from him and simultaneously the petitioner was black-listed for three years for having procured money from the corporation by falsely raising the bill for the transportation as noted above. This decision of the respondent / corporation was challenged by the petitioner before this Court *vide* C.W.J.C. No. 3088 of 2019 but while pressing, the aforesaid petition, the order with respect to cancellation of contract and recovery of the bill



amount was not agitated for the reason that the petitioner intended to invoke the arbitration clause for the same. The only issue which was put to challenge before the Court was the order of the black-listing the petitioner for participating in any work of the corporation for three years. Several grounds were urged before the Court at that instance including that the GPS location and the videographs clearly depicted that the vehicle of the petitioner, after having entered TPDS godown was not shown to have come out of the godown and therefore only on the basis of the inspection report which indicated that there was no such delivery of foodgrains in the TPDS godown, the claim made by the petitioner was held to be incorrect. The report, it was argued, also indicated that the vehicle of the petitioner was used for unloading the foodgrains from the CMR godown to TPDS godown.

For the grounds which were raised before the Court on the earlier occasion, especially, that no notice was given to the petitioner and the reply filed by him was not



considered in correct perspective, the order of black-listing was set aside and the matter was remitted to the concerned authority for writing out a fresh order in accordance with law but only after providing opportunity to the petitioner to represent his case.

Pursuant to the aforesaid decision, the petitioner approached the respondent / corporation and filed his specific reply intimating that because of the labourers refusing to load and unload the foodgrains from CMR godown to TPDS godown manually, the same was transported by his vehicle in several trips as the distance between the CMR godown and TPDS godown was 50 to 60 meters. The petitioner had only billed for several trips of the vehicle from CMR godown to TPDS godown for unloading the foodgrains at TPDS godown.

The other ground which has been urged by the petitioner is that the assumption of the foodgrains having been dispatched from CMR godown to the distributors directly is not correct in as much as according to the



manifest, a separate transporter has been assigned the duty of transporting foodgrains from TDPS godown to the respective distributors and for such transporting of foodgrains to those distributors, bills have been raised by different contractors / transporters which have been paid by the corporation.

This, therefore, gives rise to the only presumption that from the CMR godown, the foodgrains were transported to TPDS godown. In that event, if the petitioner had to be faulted with, it could only be for not seeking permission to unload / transport by vehicle instead of transporting by head load, as has been instructed by the corporation.

Assuming, it has been urged, that this was a lapse on the part of the petitioner, it would not justify as serious an action like black-listing the petitioner for any further work of the corporation for three years.

The aforementioned grounds as also various parts of the inspection report, which to a large extent confirmed the



unloading of foodgrains from CMR godown to TPDS godown, did not find favour with the respondent / corporation and the order of black-listing of the petitioner for three years was held to be justified.

This Court, on perusal of the order impugned and other documents brought on record as well as the affidavits filed by the parties, is of the view that there are factual aspects and competing claims of the parties which cannot be adjudicated in the present writ petition. However, what strikes the Court is that the respondent / corporation did not at all take into account the justification of subjecting the petitioner to such serious civil consequence like black-listing for such a minor breach and whether such action was in proportion to the fault of the petitioner.

Apart from this, the order reflects non-application of mind in as much as it does not spell out clearly whether the period of black-listing which the petitioner has already suffered up till now is required to be set off in the term of three years. If the order impugned is to be taken as an



order on a fresh proceeding, then perhaps the petitioner remains black-listed for more than three years i.e., four and a half years.

For the aforesaid reasons, this Court is of the view that the concerned respondent *viz* the Managing Director, BSFC (Respondent No. 2) would be required to give a re-look on the order on these aspects.

Should the petitioner make a suitable representation before the Managing Director, BSFC, Patna, within a period of three weeks, intimating the reasons to suggest that the order of black-listing for three years is disproportionate to the breach which is alleged against him and that the period which he has already suffered as a black-listed transporter would justifiably be required to be set off if no interference is made with the order, such representation be acted upon and disposed off by a reasoned order by the concerned respondent within a period of four weeks thereafter.



If the petitioner is not satisfied with the order passed on such representation, he may approach this Court again.

With the aforesaid observation / direction, this petition stands disposed off.

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	18.01.2020
Transmission Date	

