

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4245 of 2021

=====

Deep Jyoti Wife of Shri Amit Kumar Singh Resident of New Agarwa, Near
Anil Anal, P.O. - Motihari, P.S. - Town Motihari, District - East Champaran.

... .. Petitioner/s

Versus

1. Bihar State Food and Civil Supplies Corporation Ltd. Khoya Bhawan, 4th Floor, Daroga Roy Path, Patna through its Managing Director.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Khoya Bhawan, 4th Floor, Daroga Roy Path, Patna.
3. The District Transport committee, Muzaffarpur through the Bihar State Food and Civil Supplies Corporation Ltd. Muzaffarpur, Chandralok Market, Naya Tola, Muzaffarpur.
4. The District Magistrate, Muzaffarpur - cum - Chairman of the District Transport committee, Muzaffarpur.
5. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd. Muzaffarpur, Chandralok Market, Naya Tola, Muzaffarpur 842001.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 3317 of 2020

=====

Deep Jyoti, Wife of Shri Amit Kumar Singh, Resident of New Agarwa, Near
Anil Anal, P.O. - Motihari, P.s.- Town Motihari, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Food and Civil Supply Department, Government of Bihar, New Secretariat, Patna.
3. Bihar State Food and Civil Supplies Corporation Ltd., Khoya Bhawan, 45th Floor, Daroga Roy Path, Patna through its Managing Director.
4. The Managing director, Bihar State Food and Civil Supplies corporation Ltd., Khoya Bhawan, 4th Floor, Daroga Roy Path, Patna.
5. The District Transport committee, Muzaffarpur through the Bihar State Food and Civil Supplies Corporation Ltd. Muzaffarpur, Chandralok Market, Naya Tola, Muzaffarpur.
6. The District Magistrate, Muzaffarpur-cum-Chairman of The District Transport committee, Muzaffarpur.
7. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd. Muzaffarpur, Chandralok Market, Naya Tola, Muzaffarpur 842001.
8. Praveen Kumar Deepak, Son of not known to the Petitioner, the District Manager, Bihar State Food and Civil Supplies Corporation Ltd.



Muzaffarpur, Chandralok Market, Naya Tola, Muzaffarpur.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 4245 of 2021)

For the Petitioner/s : Mr. P.K. Shahi, Advocate
Mr. Arun Kumar, Advocate
Mr. Raghubir Chandrayan, Advocate
For the Respondent/s : Mr. Anil Kr. Singh, GP-26
Mr. Shailendra Kumar Singh, Advocate

(In Civil Writ Jurisdiction Case No. 3317 of 2020)

For the Petitioner/s : Mr. P.K. Shahi, Sr. Advocate
Mr. Arun Kumar, Advocate
For the Respondent/s : Mr. S. Raza Ahmad, AAG-5
Mr. Alok Ranjan, A.C. to AAG-5
Mr. Shailendra Kumar Singh, Advocate
Mr. Utkarsh Utpal, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-11-2022

Heard learned counsel for the parties.

In CWJC No. 4245 of 2021, petitioner has prayed for
the following relief(s):-

- a. For issuance of an appropriate Writ in the nature of certiorari quashing the decision of the District Transport Committee, Muzaffarpur dated 22.01.2020 as communicated by the District Manager, Muzaffarpur vide Memo No. 99 dated 22.01.2020 by which the Petitioner has been blacklisted and the amount of Earnest Money as well as the Bank Guarantee has been forfeited as a consequence there of, the petitioner has been prohibited from participating in any tender published by Bihar state Food Corporation for the next five years.**
- b. For issuance of an appropriate writ in the nature of Mandamus commanding the Respondents to**



allow the Petitioner to participate in the Notice Inviting Tender as published by the Bihar State Food and Civil Supplies Corporation Limited for selection and empanelment of men and doorstep delivery transporting contractors for transportation of food grains for which date/time for submission/uploading of offer/bid is 20th of August 2020 and the technical bid has to be opened on 21.08.2020 (For Main) and 25th of August 2020 for DSD.

c. For issuance of an appropriate writ holding and declaring the aforesaid decision of the District Transport Committee, Muzaffarpur dated 22.01.2020 as communicated by the District Manager, Muzaffarpur vide Memo No. 99 dated 22.01.2020 to be wholly illegal and nonest in the eye of law and also in teeth of principles of natural Justice.

d. For issuance of any other order/orders or relief/reliefs for which the Petitioner may be found to be entitled in the facts and circumstances of the case.

In C.W.J.C. No. 3317 of 2020, petitioner has prayed for the following relief(s):-

a. For issuance of an appropriate Writ in the nature of certiorari quashing the decision of the District Transport Committee, Muzaffarpur as contained in Memo No.1557 dated 9th of November 2019 by which NIT number 831 dated 15th of June 2019 published for appointment of Transportation-cum-Handling and, delivery contractor (Door Step Delivery), Muzaffarpur as well as the decision of the District Transport Committee, Muzaffarpur in its meeting



date 28th of October 2019 has been cancelled and as a result of the said cancellation, the Agreement of the petitioner has been cancelled and a decision have been taken for publication of a tender notice immediately for appointment of the vacancies of Transporting-cum-Handling Agent (DSD) and the work has been allotted to the working transporting agents (DSD) on their earlier prescribed rate.

- b.** For issuance of an appropriate writ in the nature of certiorari for quashing the order of the Managing Director of State Food Corporation Headquarter, Patna as contained in Memo No. 462 dated 13th of January 2020 by which the decision of the District Transport Committee as contained in Memo No. 1557 dated 9th of November 2019 has been approved and furthermore, a direction has been given to the District Transport Committee, Muzaffarpur to blacklist the petitioner and forfeit the amount of Reserve fund and the Bank guarantee and restrain the petitioner from participating in any tender issued by Bihar state Food Corporation for a period of 5 years.
- c.** For issuance of an appropriate writ in the nature of certiorari for quashing the (Notice Inviting Tender) NIT No. 1798 published by Bihar State Food & Supplies Corporation Ltd. Muzaffarpur for appointment of ten numbers of Transportation-cum-Handling and Delivery Contractor (Door Step Delivery) for delivery of foodgrains for the district of Muzaffarpur.



- d.** For issuance of an appropriate writ in the nature of Mandamus commanding the Respondents to not to fill up one number of vacancy of Transportation-cum-Handling and Delivery Contractor (Door Step Delivery) as the petitioner had already offered the rate of transportation of food grains and was declared L1 In the NIT published by the state Food Corporation, Muzaffarpur bearing NIT No. 831 dated 15th of June 2019 and the Petitioner has all the necessary infrastructure for delivery of foodgrains for one out of 10 part of the district of Muzaffarpur.
- e.** For issuance of an appropriate writ holding and declaring the aforesaid orders as issued by the Respondents to be wholly illegal and nonest in the eye of law and also in teeth of principles of natural Justice.
- f.** For issuance of any other order/orders or relief/reliefs for which the Petitioner may be found to be entitled in the facts and circumstances of the case.

Shri P.K.Shahi, learned Senior Counsel appearing on behalf of the petitioners, *inter alia*, has assailed the original order dated 09.11.2019, passed by the District Transport Committee, Muzaffarpur (Annexure-20, Page-88), as affirmed by the Appellate Authority i.e. Managing Director of State Food Corporation Headquarter, Patna vide order dated 13th of January, 2020 (Annexure-22, Page-91) and the consequential order passed in terms thereof being order dated 22nd of January, 2020, passed by the District Transport Committee, Muzaffarpur



(Annexure-1, Page-42).

The challenge, *inter alia*, is on the ground that the order of blacklisting stands passed not only without issuance of any notice to show-cause but on the direction of the Appellate Authority who was not even seized of the matter. The right and prerogative of blacklisting is that of the Original Authority and not that of the Appellate Authority, and any mandate to this effect is contrary to the settled principle of law. Also, in rescinding the petitioner's contract in terms of the NIT dated 15.06.2019, as executed on 30.10.2019, both the Original Authority as also the Appellate Authority lost sight of the fact that the fault was totally attributable to the vendor notified by the respondent who was to provide for and install the GPS device and load shell on the vehicle earmarked for transporting the foodgrains/goods in terms of the agreement.

In the response filed by the respondents, we do not find the first submission to be refuted in any manner. Blacklisting for a period of five years entails both civil and penal consequence. It debars the petitioner from participating in any of the works of the respondent. No such order could have been passed without issuing notice to show-cause and considering the principle of proportionality. Reading of the



order indicates that the order of blacklisting was for an indefinite period, though clarify that petitioner is prevented to participate in the work for next five years.

On the other count, we notice that the pleas raised by the petitioner, of no fault liability, was neither referred to nor considered by the Appellate Authority. Even prior to rescinding the agreement, no notice to show-cause was ever issued to the petitioner.

In this view of the matter, we are left with no option but to quash the impugned original order dated 09.11.2019, passed by the District Transport Committee, Muzaffarpur (Annexure-20, Page-88); order dated 13th of January, 2020 passed by the Managing Director of State Food Corporation Headquarter, Patna (Annexure-22, Page-91) and the consequential order passed in terms thereof being order dated 22nd of January, 2020, passed by the District Transport Committee, Muzaffarpur (Annexure-1, Page-42), in so far as it deals with the petitioner, with liberty to Respondent No. 2, namely, the Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Khoya Bhawan, 4th Floor, Daroga Roy Path, Patna to have the matter examined afresh and take appropriate action, if so required and desired, in accordance



with law.

Liberty reserved to the petitioner to assail the order in
accordance with law.

The instant petition stands disposed of in the aforesaid
terms.

Interlocutory Application(s), if any, shall stand
disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	18.11.2022
Transmission Date	

