

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21288 of 2019

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1. Mangal Prasad, Son of Late Ramchandra Prasad, Resident of Mohalla-Paschim Tola, Police Station-Ara Town, District-Bhojpur.
 2. Ashish Kumar Ojha, Son of Devendra Ojha, Resident of Village-Ramsharan, Police Station-Barhara, District-Bhojpur Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Human Resource Department, Government of Bihar, Patna.
2. The Principal Secretary, Human Resource Department, Government of Bihar, Patna.
3. The Director, Mid Day Meal Project, Bihar, Patna.
4. The District Magistrate, Ara.
5. The District Education Officer, Ara.
6. The District Program Officer, Mid Day Meal Project, Bhojpur, Ara.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Anand Kumar Ojha, Advocate
For the Respondent/s	:	Mr.Madhaw Prasad Yadaw (GP 23) Mr. Girjish Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 12-12-2022 Petitioners have prayed for the following relief(s):-

“i. Issuance of the writ in the nature of certiorari to quash the letter under Memo No. 788 dated 31.08.2019 by which the tender notice issued for the Financial Year 2017-18 was communicated to have been terminated.

ii. Issuance of direction to the Authorities to complete the process of selection



of transporter under the Mid Day Meal Scheme for the financial year 2017-18 as directed by the Hon'ble Court in the order dated 17.04.2017 in C.W.J.C. No. 6822 of 2016 whereby and whereunder the Respondents were directed to embark upon issuance of fresh selection process for selection of contractor for the purpose of distribution of Mid Day Meal as the order of the Hon'ble Court under the facts and circumstances of the earlier litigation observed as follows:

“3. The period of contract has come to an end on 31st December, 2016 and as such the has rendered infructuous, but the learned counsel for the petitioner submits that the whole action is arbitrary, not sustainable in law, which could have been shown before this Court. However, as the period is over, there is no question to unravel mystery of selection of contractors. The apprehension of the petitioners is that though the period is over, but the selected contractors are still continuing the work on the basis of same work order.

4. In such view of the matter, this Court is of the view that the period of the contract is over, the respondents are directed to embark fresh process of selection of contractors for the purposes of distribution of Mid Day Meal On publication of fresh NIT, the petitioners will be at liberty to participate in the bid and the case of these petitioners will be considered as per the merit.”

iii. Issuance of declaration that after the order of the Hon'ble Court any authority including District Level Selection Committee had not jurisdiction to cancel the tender issued under the orders of the Hon'ble Court and for that reason alone the decision of the District Level Committee is bad, arbitrary, contemptuous and liable to declare as nonest, invalid and having no sanction of law.

iv. Issuance of writ in the nature of



mandamus to call for the records of the District Level Committee and further issuance of writ of certiorari to quash the same on the ground of being illegal and without jurisdiction as also in gross contempt of the orders of the Hon'ble Court.

v. Issuance of direction for an enquiry against all the officials liable for violation of the orders of the Hon'ble Court and for fixing responsibility and award of compensation to the Petitioner and the likes.

vi. Issuance of direction restraining the authorities from issuing any fresh notice following the cancellation of the tender of 2017-18 illegally terminated by Respondents and the Respondents may be interdicted from undertaking any selection process for appointing contractors under the MDM Scheme pursuant to the order under Memo No. 788 dated 31.08.2019.”

After the matter was heard for some time, finding the Court not in favour of the submissions made across the Bar, learned counsel for the petitioners, under instructions, states that the petitioners shall be content if the petitioners are permitted to withdraw the present petition, with liberty to approach respondent No. 4, namely The District Magistrate, Ara and/or initiate appropriate proceedings before the appropriate forum and to take recourse to such other alternate



remedies which are equally efficacious in law.

Learned counsel for the respondents states that the work is now being executed by an instrumentality of the State.

Statement accepted and taken on record.

Prayer allowed.

The petition is disposed of as withdrawn with the liberty aforesaid.

Liberty reserved to the petitioners to take recourse to such other remedies as are otherwise available in accordance with law.

It stands clarified that all issues of fact and law are left open to be agitated before the competent authority.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

K.C.Jha/-

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