

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9345 of 2023

1. F.C.I. Shramik Union through its President, Harikant Sharma its B.M.S. No.- D- 291, Reged. Office- C-45, Chandu Nagar, Gali No. 5, Near Bihari Masjid, Karueal Nagar Road, Delhi- 110094.
2. Harikant Sharma, Son of Jaung Bahadur Sharma President F.C.I. Shramik Union, R/o B- 212/3, Birla Form, Near Nanda Hospital, Chatarpur Extention Delhi 110074. ... Petitioners

Versus

1. Food Corporation of India Headquarters- through its Chairman-cum-Managing Director, having its Head Office at 16-20, Barakhamba Lane, New Delhi- 110001.
 2. The General Manager (Region), Food Corporation of India, Regional Office, Arunachal Bhawan, 3rd and 4th Floor, Exhibition Road, Patna.
 3. The Assistant General Manager, Food Corporation of India, Regional Office, Arunachal Bhawan, 3rd and 4th Floor, Exhibition Road, Patna.
 4. The Divisional Manager, Food Corporation of India, Divisional Office, Digha Ghat, Patna. ... Respondents
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Appearance :

For the Petitioners : Mr.Pravashankar Mishra, Adv.
For the Respondents : Mr.Prabhakar Tekriwal, Adv.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

2 05-07-2023 The present writ petition has been filed for the following reliefs :

(i) For issuance of a writ in the nature of a writ of certiorari thereby quashing the tender notice no. 84 C-- 13/1/2022/E.Tend./NIT dated 02.11.2022 issued by the General Manager (Region) FCI Regional Office, Patna (Respondent no. 2) whereby tender has been invited for appointment of contractual labours through handling and transport contract.

(ii) For issuance of a writ in the nature of a writ of certiorari thereby quashing transfer order dated 22.06.2023 issued by General Manager (Region) FCI Regional Office, Patna (Respondent no. 2) under the signature of Assistant General Manager, FCI (Respondent No. 3) on his behalf, whereby all



the departmental/regular workers of F.C.I., FSD Saharsa have been En Bloc Transferred from Saharsa Depot to other Depots in an arbitrary and mala fide manner and in complete violation of the provisions of the I.D. Act, 1947.

(iii) For directing the respondent authorities not to give effect to the impugned order notice no. 84 C-13/1/2022/E.Tend./NIT dated 02.11.2022 and impugned Transfer Order dated 22.06.2023, and the same shall remain stayed and no relieving order may be passed till disposal of the present writ application.

(iv) To issue any other appropriate writ/writs, direction/directions/order/orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

2. The present writ petition has been filed by the F.C.I. Shramik Union, through its President (arrayed as petitioner no. 1) and the President of the said Union (arrayed as petitioner no. 2).

3. It is the case of the petitioner that the Food Corporation of India (respondent no. 1) has many godowns/depots all over the country which are functioning under the Food Corporation Act, 1964 (hereinafter referred to as, "the Act") that the main functions of the Food Corporation of India are to undertake purchase, storage, movement, transport, distribution and sale of goods. Further, it is averred that an



agreement was reached between the Food Corporation of India and the workers union vide agreement, dated 23.05.1973, and as per the various settlements reached between the Corporation and the workers union the godowns/depots are classified as notified depot, settlement depot/departmental depot, non-notified depot/non-settlement depot. That nearly 289 depots are there in the country out of which 226 depots are notified depots wherein the appointment of contractual workers is prohibited. In so far as the Food Corporation of India, FSD Saharsa is concerned, it is a settlement/departmental depot upgraded which is at par with the notified depot and the contract labourers cannot be engaged as the same is prohibited under the Act as well as the bipartite agreement reached between the Corporation and the Union, dated 23.05.1973.

4. Further, it is averred that the Nagpur Bench of the Bombay High Court in a suo moto case taken-up as a public interest litigation vide PIL No. 84 of 2014 has passed an order stating that the Corporation is free to engage workers of its choice. That as against the decision of the Bombay High Court, Nagpur Bench, the matter was carried to the Hon'ble Supreme Court vide SLP (C) No.19219 of 2016 and while dismissing the said SLP vide order, dated 31.07.2017, the Hon'ble Supreme



Court had granted leave to the Workers Union to file an appropriate application before the appropriate Court, if they have any grievance. That the authorities concerned, without taking into consideration the bipartite settlement reached between the Corporation and the Workers Union has called for a E-tender, bearing no. 84 C-13/1/2022/E.Tend./NIT dated 02.11.2022 for appointment and handling and waraferi (transport) contractor at FCI, FSD Saharsa, which is a settlement depot, for a period of two years. The Workers Union, apprehending en-bloc transfer of all department workers, have issued a strike notice, dated 21.11.2022, and, thereafter, the conciliation efforts raised before the Assistant Labour Commissioner (Central), Pakur, was closed vide letter, dated 12.06.2023 addressed to the Deputy Chief Labour Commissioner (Central) Patna, wherein it was reported that the conciliation have failed. Thereafter, the matter has been referred by the Deputy Chief Labour Commissioner (Central) Maurya Lok Complex, Patna, under Section 12 sub section (5) read with sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 to the Central Government Industrial Tribunal-cum-Labour Court No. 2. In the meanwhile, the authorities have issued the impugned transfer order, dated 22.06.2023, wherein



en-bloc transfer of the workers has been proposed. The petitioner no. 1, being the representative of the workers, has filed the present writ petition as they have no other alternative remedy.

5. The learned counsel appearing for the State has vehemently opposed the very maintainability of the writ petition and stated that the Labour Court-cum-Industrial Tribunal is already ceased of the matter and that the petitioners can raise all the issues raised in the present writ petition before the said Labour Court.

6. Admittedly, the Workers Union has filed the present writ petition and none of the individual worker who has been transferred to some other place vide impugned order, dated 22.06.2023, have approached this Hon'ble Court in their individual capacity.

7. More over, the learned counsel for the respondents has stated that already more than half of the workers have already joined the new postings pursuant to the transfer orders and the petitioners cannot represent the individual interest of the workers in the present writ petition. In case the individual workers have any grievance, they are free to approach this Hon'ble Court but the present writ petition filed



by the Union espousing the cause of the labourers en-bloc cannot be entertained.

8. Admittedly, in the present case, the Workers Union has already issued a strike notice and the Assistant Labour Commissioner (Central), Pakur, has raised industrial dispute and reported that the conciliation efforts have failed. The matter has been referred to the Industrial Tribunal-cum-Labour Court and once the Industrial Tribunal-cum-Labour Court is ceased of the matter, the present writ petition filed by the petitioners cannot be entertained. More so, when none of the individual workers/labourers are before this Hon'ble Court. If the Union has any grievance they are free to agitate their rights before the Industrial Tribunal-cum-Labour Court.

9. Having regard to the above, this Court does not find any merit in the present writ petition which warrants any interference and the same is **dismissed** leaving it open to the petitioners to approach the Industrial Tribunal-cum-Labour Court and raise all disputes before the said Court.

(A. Abhishek Reddy , J)

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