

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12124 of 2023

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M/s Omdeo Packers and Movers Pvt. Ltd. through its Managing Director,
Smt. Purnima Singh, (Female), aged about 45 Years, W/o Rana Saumitra Deo
Singh, having its registered Office at Shop No. 15, L.N. Tower, Main Road,
Kankarbagh, P.S.-Kankarbagh, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Food and Civil Supplies, Government of Bihar, Patna.
2. The Bihar State Food and Civil Supplies, Corporation Ltd., Patna through its Managing Director.
3. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Patna.
4. The District Manager, Patna, Bihar State Food and Civil Supplies Corporation Ltd., Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dayanand Singh, Advocate
For the State	:	Mr. Maruth Nath Ray, AC to SC 4
For the Respondent/s	:	Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 18-10-2023

Heard learned counsel for the respective parties.

2. In the instant petition, petitioner has prayed for the following reliefs:-

"(i) For issuance of appropriate writ / orders / direction of quashing setting aside the order dated 18.04.2023 whereby and whereunder



the Respondent No. 3 has rejected the representation filed by the Petitioner.

(ii) For issuance of appropriate writ / orders / direction of quashing setting aside the order dated 07.09.2018 whereby and whereunder the Respondent No. 3 has illegally black listed the Petitioner for five years from 21.01.2016 and further forfeited security deposit and bank guarantee of the Petitioner.

(iii) For issuance of appropriate writ / orders / direction to the Respondent to pay an interest @ 6% on Rs. Rs. 69,17,222 from 08.02.2018 (date on which the payment became due) till 21.06.2022 (date on which the applicant received the payment), which amounts to Rs. 18,11,363 as per the direction passed by Hon'ble Patna High Court in order dated 08.02.2018 in CWJC No. 17455/2016, M/s Omdeo Packers and Movers Pvt. Ltd. vs The State of Bihar and Ors. Whereunder the Hon'ble Court directed the Respondent to pay interest @ 6% if the representation is not decided within six weeks and the representation dated 21.02.2018 was kept pending for 7 months as against the order of disposal in six weeks by the Hon'ble Court.

(iv) For issuance of appropriate writ / orders / direction for quashing the portion of order dated 26.04.2022 issued under the hand of Managing Director, Bihar State Food & Civil Supplies Corporation Ltd. whereby and whereunder though the payment of Rs. 69,17,222 (Rupees Sixty Nine Lakh Seventeen Thousand Two



Hundred Twenty Two) has been made, however, the security money and bank guarantee of the Petitioner company has been withheld in following terms
जिला प्रबंधक, पटना द्वारा पूर्व आदेश ज्ञापनक -3537, दिनांक 20.12.2018 को अवक्रमित करते हुए जिला प्रबंधक, पटना को निर्देश दिया जाता है की वे आवेदक के परिवहन विपत्तियों के लंबित राशि का भुगतान अधिकतम 15 दिनों के भीतर आवेदक को कर दें। चूँकि इस मामले में आवेदक को काली सूची में डाले जाने तथा उससे उद्भूत जमानत राशि तथा बैंक गारंटी जब्त करने के निर्णय का कोई सम्बन्ध नहीं है, इसलिए इस बिंदु पर यह आदेश मान्य नहीं होगा | वाद निष्पादित ।”.

(v). For issuance of appropriate writ / orders/direction to the Respondents returning of security money of Rs 4,00,000, bank guarantee of Rs. 5,00,000 and earnest deposit of Rs. 1,00,000 to the Petitioner.

(vi). For any other writ, order, direction which the petitioner firm may be found eligible and entitled to and which may also seem just, proper and necessary in order to safeguard the rights and interest of the petitioner firm."

3. During pendency of the present writ petition IA No. 1 of 2023 has been filed insofar as questioning the Blacklisting order dated 07.09.2018. For the reasons stated in the application and affidavit, I.A. 1 of 2023 stands allowed.

4. With the consent of the Respective Counsels matter is taken up for final disposal. The petitioner has been blacklisted for



a period of five years. *Prima facie* there is delay in questioning the blacklisting order. However, at this stage, learned counsel for the petitioner submitted that petitioner had earlier approached this Court in CWJC No. 767 of 2022 and it was decided on 22.02.2022 directing the petitioner to submit representation to the concerned authority. The concerned authority proceeded to pass order on 26.04.2022.

5. Pursuant to our previous order the petitioner's monetary benefits like interest is stated to have been paid and it is not disputed by learned counsel for the petitioner. What remains in the present petition is whether blacklisting the petitioner on 07.09.2018 is in order or not?

6. Learned counsel for the petitioner vehemently contended that having regard to the conduct of the respondent in their decision it is suffice to interfere with the blacklisting order dated 07.09.2018. In this regard, learned counsel for the petitioner pointed out from Annexure P/2 dated 07.09.2018 and 26.04.2022. The same is not disputed by learned counsel for the respondents. It is necessary to reproduce the relevant portion of the order dated 07.09.2018 which is as under:-

निगम के द्वारा पूछे गये स्पष्टीकरण
दिनांक 18.12.2015 एवं सुनवाई के | दौरान
उपलब्ध साक्ष्यों एवं जिला प्रबंधक, राज्य



खाद्य निगम, पटना के प्रतिवेदन से । स्पष्ट है कि याचिकाकर्ता मे० ओमदेव पैकर्स मूवर्स प्रा० लि० द्वारा जी०पी०एस० एवं लोडशेल युक्त बाहनों का पर्याप्त संख्या में ससमय उपलब्ध नहीं कराने के दोषी एवं एकरारनामा का कंडिका - 10, 11 12 एवं 13 का उल्लंघन किया गया है। अतः एकरारनामों की कंडिका-16 के तहत मे० ओमदेव पैकर्स एण्ड मूवर्स प्रा० लि० को दिनांक 21.01.2016 की तिथि से रद्द एकरारनामे के साथ 05 वर्षों के लिए काली सूची में दर्ज किया जाता है एवं जमा जमानत की राशि एवं बैंक गारण्टी जप्त करने का आदेश दिया जाता है।

एकरारनामे की कंडिका-10..... *under no circumstances the Vehicle shall be used without GPS, & Load cell device for Transportation of food grains and-if vehicle is used without GPS and Load cell device, no transporting charges will be paid as well as penalty will also be imposed.*

अतः, जिला प्रबंधक, राज्य साथ निगम, पटना के पत्रक 397 दिनांक 22.02.18 से प्राप्त अध्याचना को अस्वीकृत करते हुए विपत्र को वापस किया जाता है। जिला प्रबंधक, पटना विपत्र की एकरारनामे की शर्तों के अनुरूप जाँच कर विधिसम्मत आदेश पारित करेंगे।

लेखापित संशोधित प्रबंध निदेशक
प्रबंध निदेशक



ज्ञापांक संख्या:-- 9845

दिनांक:- 8/2/18 प्रेषित ।

प्रतिलिपि:- जिला प्रबंधक, राज्य
खाद्य निगम, पटना को सूचनार्थ एवं आवश्यक
कार्यार्थ

प्रतिलिपि:- सभी मुख्य
महाप्रबंधक सभी महाप्रबंधक, सभी उप
महाप्रबंधक, बिगन मुख्यालय, पटना को
सूचनार्थ एवं आवश्यक कार्य प्रेषित ।

प्रतिलिपि:- आवेदक ने० ओनदेव
कर्स एण्ड मूवर्स प्रा०लि०. प्रो०- पूर्णिमा
सिंह, पति - श्री राणा सौमित्र देव सिंह को
सूचनार्थ एवं आवश्यक कार्रवाई हेतु
उप महाप्रबंधक
क्रय एवं विधि,
निगम मुख्यालय, पटना।”

7. Similarly, the order dated 26.04.2022 it is necessary to
quote relevant paragraph which is as under:-

“दोनो पक्षों को सुनने से पूरी तरह
स्पष्ट है कि आवेदक के परिवहन विपत्र को
आंशिक रूप से अस्वीकृत करना विधि सम्मत
नहीं है, क्योंकि आवेदक के वाहनों में
जी०पी०एस० यंत्र लगे रहने के पर्याप्त साक्ष्य
उपलब्ध हैं। दूसरी ओर निगम द्वारा लोडशेल
यंत्र नहीं लगाए जाने के संबंध में दंडात्मक
कटौतियों का प्रावधान अप्रैल, 2016 से लागू
हुआ है। अतः उसके पूर्व की अवधि में लोडशेल
नहीं लगाने के कारण आवेदक के विपत्रों से



कटौती या उनके दावे को अस्वीकार किया जाना न केवल भेदभाव पूर्ण होगा बल्कि औचित्यहीन तथा अवैधानिक भी। उक्त के आलोक में जिला प्रबंधक, पटना द्वारा पूर्व "आदर्श ज्ञापांक-3537, दिनांक 20.12.2018 को अवक्रमित करते हुए जिला प्रबंधक, पटना को निदेश दिया जाता है कि वे आवेदक के परिवहन विपत्तियों के लम्बित राशि का भुगतान अधिकतम 15 दिनों के भीतर आवेदक को कर दें। चूँकि इस मामले से आवेदक को काली सूची में डाले जाने तथा उससे उद्भूत जमानत राशि तथा बैंक गारंटी जब्त करने के निर्णय का कोई संबंध नहीं है, इसलिए इस बिन्दु पर यह आदेश मान्य नहीं होगा। बाद निष्पादित। प्रबंध निदेशक, बिहार राज्य खाद्य एवं असैनिक आपूर्ति निगम, बिहार, पटना। "

8. Reading of the aforementioned decision of the official respondent it is evident that blacklisting the petitioner in the year 2018 and reason assigned is contrary to factual aspects of the matter in the light of order dated 26.04.2022.

9. In the light of these facts and circumstances, the petitioner has made out a *prima facie* case so as to interfere with the blacklisting order dated 07.09.2018 vide Annexure P-2 to the I.A. No. 1 of 2023 and the same is set aside. The petitioner is entitled to all consequential reliefs as if the blacklisting order is not existing in the eye of the law.



10. Writ petition stands allowed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

