

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11980 of 2023

Arjun Paswan S/o Sri Mehi Paswan Resident of Ward No. 2, Narayanpur
Dadhiya, P.O. Shambhupatti, P.S. Muffassil, District- Samastipur
... Petitioner

Versus

1. The Bihar State Food and Civil Supplies Corporation Ltd. Khadh Bhawan, Daroga Rai Path, R Block, Road No. 2, Patna- 1, through its Managing Director.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Khaadh Bhawan, Daroga Rai Path, R Block, Road No. 2, Patna-1.
3. The Deputy General Manager (Transport), Corporation Headquarters, Bihar State Food and Civil Supplies Corporation Ltd., Patna.
4. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd., Samastipur. ... Respondents

with

Civil Writ Jurisdiction Case No. 11802 of 2023

Harendra Sah S/o Sri Surendra Sah, Resident of Village-Motipur, Tajpur-
848130, District-Samastipur ... Petitioner

Versus

1. The Bihar State Food and Civil Supplies Corporation Ltd. Khadh Bhawan, Daroga Rai Path, R. Block, Road No. 2, Patna-1 through its Managing Director.
2. The Managing Director Bihar State Food and Civil Supplies Corporation Ltd. Khaadh Bhawan, Daroga Rai Path, R. Block, Road No. 2, Patna-1.
3. The Deputy General Manager (Transport), Corporation Headquarters, Bihar State Food and Civil Supplies Corporation Ltd., Patna.
4. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd., Samastipur. ... Respondents

with

Civil Writ Jurisdiction Case No. 13034 of 2023

Nawal Kishore Roy S/o Sri Ram Bilash Roy, resident of Ward No. 03,
Jitwarpur, Chauth, Samastipur - 848134, Bihar. ... Petitioner

Versus

1. The Bihar State Food and Civil Supplies Corporation Ltd. Khadh Bhawan, Daroga Rai Path, R Block, Road No. 2, Patna- 1, through its Managing Director.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Khaadh Bhawan, Daroga Rai Path, R Block, Road No. 2, Patna - 1
3. The Deputy General Manager (Transport), Corporation Headquarters, Bihar State Food and Civil Supplies Corporation Ltd., Patna.
4. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd.,



Samastipur. ... Respondents

with
Civil Writ Jurisdiction Case No. 13035 of 2023

Krishnadeo Jha S/o Sri Siddhi Nath Jha Resident of Near Shiv Mandir,
Jagdishpur, Adharpur urf Chak Nizamat, Adharpur, Samastipur-848310
... Petitioner

Versus

1. The Bihar State Food and Civil Supplies Corporation Ltd. Khadh Bhawan, Daroga Rai Path, R Block, Road No. 2, Patna-1, through its Managing Director
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Khaadh Bhawan, Daroga Rai Path, R. Block, Road No. 2, Patna-1
3. The Deputy General Manager (Transport), Corporation Headquarters, Bihar State Food and Civil Supplies Corporation Ltd., Patna.
4. The Distirct Manager, Bihar State Food and Civil Supplies Corporation Ltd., Samastipur ... Respondents

with
Civil Writ Jurisdiction Case No. 13072 of 2023

Prashant Enterprises, through its Proprietor Sri Naveen Kumar Jha aged about 48 Years (Male), S/o Sri Rama Kant Jha, Resident of Ward No. 13, Shahpur, P.O. Bhorejairam, P.S. Khanpur, District-Samastipur ... Petitioner

Versus

1. The Bihar State Food and Civil Supplies Corporation Ltd., Khadh Bhawan, Daroga Rai path, R Block, Road No.2, Patna-1, through its Managing Director
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Khaadh Bhawan, Daroga Rai Path, R Block, Road No. 2, Patna-1
3. The Deputy General Manager (Transport), Corporation Headquarters, Bihar State Food and Civil Supplies Corporation Ltd., Patna.
4. The District Magistrate, Bihar State Food and Civil Supplies Corporation Ltd., Samastipur. ... Respondents

with
Civil Writ Jurisdiction Case No. 13210 of 2023

Rampukar Mahto S/o Sri Ramesh Mahto, resident of Narayanpur Dadhiya, Shambhupatti, Naraenpur Darhia, Samastipur – 848129. ... Petitioner

Versus

1. The Bihar State Food and Civil Supplies Corporation Ltd. Khadh Bhawan, Daroga Rai Path, R Block, Road No. 2, Patna - 1, through its Managing Director.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Khaadh Bhawan, Daroga Rai Path, R Block, Road No. 2, Patna - 1.
3. The Deputy General Manager (Transport), Corporation Headquarters, Bihar



State Food and Civil Supplies Corporation Ltd., Patna.

4. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd.,
Samastipur. ... Respondents

Appearance :

(In all the cases)

For the Petitioner : Mr.Ankit Katriar, Adv.

For the Respondents : M/s Shailendra Kumar Singh & Utkarsh
Utpal, Adv.

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

16 19-12-2023 Heard the parties.

2. All these batch of cases are disposed off by this
common order.

3. Shown of all the details only issue involved in all
the present Writ Petitions is as to whether the authority can
cancel the transportation-cum-handling contract without putting
the petitioners on prior notice or not.

4. Learned counsel for the petitioners has stated that
the authority concerned in an arbitrary manner, without issuing
any show cause notice to the petitioners or calling for an
explanation, has straightaway cancelled the transportation-cum-
handling contract. Further, it is stated by the learned counsel
that the authority without any application of mind has passed the
order of cancellation contrary to the provisions of law and in
violation of the principles of natural justice and equity. That the
transportation-cum-handling contract of the petitioners is
subsisting and the same is cancelled without notice. Further, it



is stated that the impugned order of cancellation is liable to be set aside as the same is in violation of the principles of natural justice and equity. That unless and until the cancellation order is set aside the petitioners will not be eligible to participate in any future tenders. That in case the order of termination is allowed to stand the petitioners would be disqualified to participate in future tenders on the ground that the earlier transportation-cum-handling contract was cancelled by the authorities concerned. Therefore, learned counsel for the petitioners has prayed this Hon'ble Court to set aside the impugned order of cancellation and permit the petitioners to complete the balance period of contract.

5. Per contra, the learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present Writ Petitions. Learned counsel has stated that the petitioners were given the transportation-cum-handling contract based on a mistaken presumption. That as a matter of fact the petitioners were not qualified did not have the requisite qualifications and there were some defects in the documents submitted by the petitioner, therefore, the authorities duly taking into consideration the order passed by this Hon'ble Court in C.W.J.C. No. 17397 of 2022 have taken a decision to



cancel the transportation-cum-handling contract issued to the petitioners. Further, learned counsel for the respondents has stated that after the cancellation of the transportation-cum-handling contract of the petitioners the authorities have already issued a fresh tender and that the prayer sought for in the present Writ Petitions has become infructuous and prayed this Hon'ble Court to dismissed the CWJC.

6. Though this Hon'ble Court vide order, dated 05.09.2023, passed in C.W.J.C. No. 17397 of 2022, has permitted the petitioners to participate in the new tender that were called for without prejudice to their rights, the petitioners admittedly could not participate in the fresh tender called. Learned counsel for the petitioners, on instructions, has stated that the petitioners were willing to forego the balance period of contract as the said period is very less and could not served any purpose for the petitioners, however, learned counsel for the petitioners has prayed that the order of cancellation may be tested on the well settled principles of law and pass order accordingly. Having regard to the fact that any order of cancellation if allowed to stand impedes the rights of the petitioners from participating in any future transportation-cum-handling contracts or any other tender, this Court has dealt with



the issue as to whether the order of cancellation passed by the authority is in accordance with law or not.

7. Admittedly, in the present cases the respondents have fairly stated that they have not issued any show cause notice to the petitioners and straightaway passed the order of cancellation on the basis of the enquiry report and also the order passed by this Hon'ble Court in C.W.J.C. No. 17397 of 2022, dated 05.09.2023. however, the fact remains that the petitioners were not served any show cause notice before the order of cancellation was passed. More over a perusal of the order passed by this Hon'ble Court in C.W.J.C. No. 17397 of 2022, dated 05.09.2023, does not reveal that this Court has passed any order directing the authorities to cancel the contract given to the petitioners without any show cause notice. The Hon'ble Supreme Court and this Court in catena of cases reported in **(2014) 9 SCC 105 (Gorkha Securities Pvt. Ltd. Vrs. NCT of Delhi)** and **2021 SCC Online Pat 262 (Birendra Prasad Singh Vrs. the State of Bihar & Ors.)**, have time and again, held that if any adverse orders are likely to be passed against any person the minimum that is expected from the authorities is to put that person on prior notice and call for his explanation before any orders are passed.



8. Having regard to the fact that no show cause notice was issued to the petitioners before the order of cancellation is passed, the impugned order of cancellation of transportation-cum-handling contract is liable to be set aside. However, the same does not entail the petitioners to continue the transportation-cum-handling contract for remaining balance period. The petitioners are at liberty to participate in all future tenders without there being any legal embargo or impediment and their tender shall not be disqualified or rejected on the ground that the petitioners earlier contract has been cancelled.

9. With the above directions, these writ petitions are **disposed off**.

(A. Abhishek Reddy , J)

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