

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13726 of 2023

Binod Kumar Singh S/o Late Bajinath Singh, Gali No. 1a, Muhalla-Gaurakshani, Sasaram, PS-Sasaram (T), District Rohtas, Bihar-821115.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary Food and Consumer Protection Department, Government of Bihar, Patna.
2. Bihar State Food and Civil Supplies Corporation Limited through Managing Director, Bihar State Food and Civil Supplies Corporation, 5th Floor, Sone Bhawan, Patna.
3. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Kaimur.
4. District Transport Committee, Kaimur through its Secretary
5. The District Magistrate Kaimur-cum-Chairman of District Transport Committee, Kaimur.
6. The Deputy Development Commissioner, Kaimur-cum-Deputy Chairman of District Transport Committee, Kaimur.
7. The District Manager, Kaimur-cum-of Secretary of District Transport Committee, Kaimur.
8. The District Transport Officer, Kaimur-cum-Member of District Transport Committee, Kaimur.
9. District Supply Officer, Kaimur-cum-Member of District Transport Committee, Kaimur.
10. The General Manager, Public Distribution, Bihar State Food and Civil Supplies Corporation Ltd. Patna.
11. Umesh Kumar Singh, S/o Late Ram Avadhesh Singh, R/o Village Sakri, PS-Kudra, District-Kaimur (Bhabua), Bihar-821108.
12. Rakesh Kumar, s/o Sakhi Chand Sah, R/o Village Muradabad Khurd, PS-Sasaram (M), District Rohtas, Bihar-821113.
13. Avinash Kumar Singh S/o Ramashankar Singh, Village-Tendua, PO-Dhawpokhar, PS-Karamchat, District-Kaimur (Bhabua), Bihar-821108.

.. ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Pd., Sr. Advocate Mr. Ravi Shankar Sahay, Advocate Mr. Prashant Bhushan, Advocate
For the Respondent/s	:	Mr. Arvind Ujjwal, SC 4
For BSFC	:	Mr. Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA



ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 07-11-2023

In the instant writ petition, petitioner has prayed for the following relief/reliefs:

“i. For issuance of a writ of certiorari or any other appropriate writ(s)/order(s)/direction(s) to quash Letter no. 5956 dated 05.08.2023, issued by Respondent No. 10, which was communicated to the petitioner vide Memo No. 709 dated 21.07.2023 issued by Respondent No. - 3 (Annexure – P/8), by which contract executed in pursuance to Notice Inviting Tender (NIT) – cum – Standard Bidding Document (SBD) No. 356 dated 17.04.2023, with petitioner and other contractors were rescinded without following the principles of natural justice. And/or

ii. For issuance of a writ of certiorari or any other appropriate writ(s)/order(s)/direction (s) to quash the consequential issuance of Notice Inviting Tender (NIT) No. - 805, dated 10.08.2023, by Respondent No. - 3 (Annexure – P/11) for selection and empanelment of Transportation cum Handling agent, And/or.

iii. For issuance of a direction to Respondent No. - 3 to stay the operation of Notice Inviting Tender (NIT) No. - 805, dated 10.08.2023,



issued him, during the pendency of the present writ application, And or/

iv. Pass such other order/orders which this court deems fit and proper in the facts and circumstances of this case for securing the ends of justice.”

2. Core issue involved in the present *lis* is that whether Headquarter Committee (BSFC), Patna in the guise of reviewing District Committee's decision is empowered to cancel the District Committee's decision or not? Powers and functions of the Headquarter Committee (BSFC), Patna is forthcoming in the order dated 16.03.2018 produced as Annexure R/2 to the counter affidavit on behalf of respondents. It is necessary to reproduce Clause 4 which reads as under:

“(4) मुख्यालय परिवहन समिति:- बिहार वित्त नियमावली

के प्रावधानों के तहत एकल निविदा के निपटारे एवं जिला परिवहन समिति द्वारा लिए गए निर्णय. मार्गदर्शन एवं समीक्षा हेतु मुख्यालय स्तर पर एक मुख्यालय परिवहन समिति होगी, जिसका स्वरूप निम्न प्रकार होगा:-

1 प्रबंध निदेशक अध्यक्ष

2 मुख्यालय में पदस्थापित वरीय विहार प्रशासनिक सेवा के पदाधिकारी

सदस्य

3 निदेशक पर्वद द्वारा मनोनित किये गये कोई एक सदस्य सदस्य

मुख्यालय परिवहन समिति यो निम्न दायित्व होंगे:-



(क) "मुख्यालय परिवहन समिति" सक्षम प्राधिकार (जिला परिवहन समिति) से एक स्तर के उपर के प्राधिकार के रूप में कार्य करेगा। इसके अलावा यदि जिला परिवहन समिति वर्तमान में स्वीकृत परिवहन दर से अधिक दर पर परिवहन अभिकर्ताओं का चयन करेगी, तो ऐसे मामले की समीक्षा भी मुख्यालय परिवहन समिति द्वारा की जायेगी।

(ख) अनियमितता बरतने के आरोप में या एकरारनामा अवधि समाप्ति के उपरान्त राष्ट्रीय खाद्य सुरक्षा योजना के अन्तर्गत खाद्यान्न के असमय उठाव, परिवहन एवं वितरण को सुचारु रूप से संचालन हेतु स्वच्छ छवि वाले कार्यरत परिवहन अभिकर्ता का चयन, नये परिवहन-सह-हथालन अभिकर्ता की नियुक्ति होने तक उक्त जिले के निर्धारित दर पर या फिर विभागीय रूप से खाद्यान्न का परिवहन जिला परिवहन समिति की अनुशंसा पर मुख्यालय परिवहन समिति द्वारा किया जा सकेगा।"

3. Reading of the aforementioned Clause, scope and powers of the Headquarter Committee (BSFC), Patna is only to the extent of reviewing the District Committee's decision and there are no powers for cancellation in the guise of reviewing the decision of the District Committee, therefore, Headquarter Committee (BSFC), Patna has committed error in cancelling in the guise of reviewing the District Committee's decision. Hence, the petitioner has made out a case so as to interfere with the impugned orders.

4. Accordingly, Letter No. 5956 dated 05.08.2023, NIT No. 805 dated 10.08.2023 stand set aside. We remand the matter to



the Headquarter Committee (BSFC), Patna to undertake/revisit to the decision of the District Committee and to undertake only review to the extent mentioned in the Clause 4 of the order dated 16.03.2018 cited *supra*. The above action shall be taken by the Headquarter Committee (BSFC), Patna within a period of two months from the date of receipt of copy of this order. The decision taken shall be communicated to the petitioner at the earliest.

5. With the above observation, present writ petition stands allowed.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.11.2023
Transmission Date	NA

