

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.1662 of 2018**

**In**  
**Civil Writ Jurisdiction Case No.268 of 2017**

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1. The Bihar State Food and Civil Supplies Corporation Ltd. Through Its Managing Director, 5<sup>th</sup> Floor Khadya Bhawan Daroga Prasad Rai Path, Patna, Bihar
  2. The Deputy Chief Transportation, The Bihar State Food and Civil Supplies Corporation Ltd. 5th Floor, Khadya Bhawan Daroga Prasad Rai Path, Patna, Bihar
  3. The District Manager, State Food Corporation District Bhojpur, Bihar.

... .. Appellant/s

Versus

1. M/s Raj Traders Through Its Proprietor Pushpa Devi and Ors Wife of Sri Rameshwar Prasad @ Pappu Sah, resident of K.G Road, P.S. Ara, Nawada, District Bhojpur, Bihar.
2. The Bihar State through the Secretary, Bihar State Food and Consumer Protection Department, Governm
3. The District Magistrate, cum Confiscating Authority, District Bhojpur, Bihar.

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Shailendra Kumar Singh, Advocate  
For the Respondent/s : Mr. Prabhat Ranjan, 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 : 27-03-2023**

**Re: I.A. No. 8831 of 2018**

Heard I.A. No. 8831 of 2018 for condonation of delay of 82  
days in filing the present LPA.



2. For the reasons stated in the application and affidavit, delay of 82 days, in filing LPA, is condoned. I.A. No. 8831 of 2018 stands allowed.

3. In the instant appeal, appellants – Bihar State Food & Civil Supplies Corporation Ltd. and others have assailed order of the learned Single Judge dated 03.08.2018 passed in CWJC No. 268 of 2017.

4. Respondent – M/s Raj Traders was into transporting and handling contractor with the appellant – Bihar State Food & Civil Supplies Corporation Ltd. (for short “BSFC”). Such agreement was entered into on 18.02.2013. There were alleged to have certain violations of clauses under the agreement by the respondent – Contractor which resulted in taking action against him. It was subject matter of CWJC No. 8035 of 2016 which was disposed of on 12.08.2016 while remanding the matter to the concerned authority to take further steps afresh in the matter. Accordingly, show cause notice was issued on 27.12.2016. Instead of filing objections to the show cause notice, the respondent – Contractor rushed to this Court in filing CWJC No. 268 of 2017. During pendency of CWJC No. 268 of 2017, the concerned authority proceeded to pass final order on 30.01.2017 insofar as blacklisting and ordering certain recovery amount. By means of



interlocutory application, respondent - Contractor assailed the order dated 30.01.2017 in CWJC No. 268 of 2017. Learned Single Judge allowed the writ petition on 03.08.2018. Hence the present LPA by the BSFC.

5. Learned counsel for the appellants vehemently contended that Contractor had violated certain clauses in the agreement dated 18.02.2013. Without filing reply to the show cause notice dated 27.12.2016, writ was filed. In the result, respondent – Contractor has not filed his reply to the show cause notice dated 27.12.2016, therefore, the BSFC proceeded to pass *ex parte* order on 30.01.2017.

6. *Per contra*, learned counsel for the respondents submitted that there is error in issuing show cause notice both on facts as well as it was issued by an incompetent authority, therefore, rightly the learned Single Judge has interfered and set aside the show cause notice dated 27.12.2016 and order dated 30.01.2017. Therefore, there is no infirmity in the order of the learned Single Judge.

7. Heard learned counsels for the respective parties.

8. We find, *prima facie*, the case is made out by the BSFC only to the extent that respondent – Contractor has failed to submit his reply to the show cause notice dated 27.12.2016. It is



also noticed that the contention of the respondent – Contractor that BSFC are not restricting their claim against the respondent – Contractor with reference to certain violations of agreement, in other words, there are variations at the time of issuance of show cause notice and passing final order. In order to overcome these certain lacunae on behalf of the BSFC, learned Single Judge has rightly set aside the show cause notice dated 27.12.2016 and order dated 30.01.2017. It is to be noted that respondent – Contractor has not been provided opportunity to meet the contents of the show cause notice dated 27.12.2016 even in the writ petition. Therefore, once again it is a case for remand.

9. The concerned authority is hereby directed to analyze factual aspects of the matter and so also who is the competent authority with reference to relevant clauses and thereafter, proceed to issue a detailed show cause notice within a period of two months from the date of receipt of this order. On receipt of show cause notice by the respondent – Contractor, he is hereby directed to furnish his reply within a period of two months from the date of receipt of the show cause notice to be issued by the concerned authority. On receipt of reply on the show cause notice, the concerned authority is hereby directed to pass detailed order after due consideration of each of the contentions to be raised by the



respondent – Contractor and communicate the decision at the earliest.

10. The above exercise shall be completed within a period of six months from the date of receipt of this order. In the event of respondent – Contractor succeeding in the proceedings, in that event, he is entitled to interest @ of 8 % *per annum* in respect of disputed and withheld of any amount of the respondent – Contractor. The same shall be paid within a period of three months from the date of passing of final order in the proceedings.

11. With the above observations, LPA stands disposed of. It is made clear that any observation made by the learned Single Judge would not come in the way of passing fresh order.

12. Pending I.A. (s), if any, stands disposed of.

**(P. B. Bajanthri, J)**

**(Arun Kumar Jha, J)**

GAURAV S./-

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