

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16628 of 2022

Prathmesh Infra Solution Private Limited a company registered under Companies Act having its registered office at 102, Saraswati Niketan, I.A.S. Colony, Kidwaipuri, Patna through its Managing Director and authorized signatory namely Madhup Kumar Singh (Male), aged about 43 years, Son of Parma Nand Singh, resident of Kath Pul, Lohanipur, Kadamkuan, Police Station - Kadamkuan, District - Patna.

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation through Principal Secretary, Khadya Bhawan, Daroga Rai Path, Patna.
2. The Principal Secretary, Bihar State Food and Civil Supplies Corporation, Khadya Bhawan, Daroga Rai Path, Patna.
3. The Bihar State Food and Civil Supplies Corporation through its Managing Director, Khadya Bhawan, Daroga Rai Path, Patna.
4. The Managing Director, Bihar State Food and Civil Supplies Corporation, Khadya Bhawan, Daroga Rai Path, Patna.
5. The District Transport Committee through its Secretary, Bihar State Food and Civil Supplies Corporation, Khadya Bhawan, Daroga Rai Path, Patna.
6. The Members of the District Transport Committee, Bihar State Food and Civil Supplies Corporation, Khadya Bhawan, Daroga Rai Path, Patna.
7. The District Manager, Bihar State Food and Civil Supplies Corporation, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajeev Shekhar, Adv.
For BSFC	:	Mr. Shailendra Kr. Singh, Adv.
	:	Ms. Usha Kumari, Adv.
For the Respondent/s	:	Mr. Shailendra Kumar Singh

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

4 05-12-2023 Heard the learned counsels for the parties.

The present writ petition has been filed for the
following relief(s):-

*“(i) To call for and production of
records of the meeting dated 04.04.2018
convened by District Transport Committee
whereby the petitioner company and one*



more contractor has been recommended for blacklisting and upon production of the same, issuance of Writ in the nature of Certiorari for quashing the Recommendation as contained in letter being no.735 dated 04.04.2018 qua the petitioner company whereby the petitioner company and one more contractor has been recommended for blacklisting in view of decision taken in meeting dated 04.04.2018 convened by District Transport Committee as no specific show cause notice for blacklisting has been issued to the petitioner company.

ii) To issue a Writ in the nature of Certiorari for quashing the following:-

(a) The decision dated 26.06.2018 taken by the District Transport Committee qua the petitioner company whereby

recommendation for blacklisting the petitioner company, rescission of the agreement and further action against the petitioner company has been made,

(b) The memo being no.1599 dated 13.07.2018 issued under the signature of District Manager, Patna whereby the petitioner company has been blacklisted and security deposit and bank guarantee have been forfeited

(c) The Appellate Order as contained in memo no.2171 dated 20.02.2019 whereby the order of rescission of the agreement and forfeiture of security deposit and bank guarantee have been affirmed and the order of blacklisting was modified by blacklisting the petitioner company for five years as the orders are perverse, passed in blatant”

3. Learned counsel for the petitioner has stated that the authorities concerned without taking into consideration the fact that no loss has been caused to the respondent authority has not only cancelled the agreement entered between the parties but also forfeited the security deposit, encash the bank guarantee



and also black-listed the petitioner's firm. Learned counsel has stated that even though the Appellate Authority has reduced the term of black-listing, the Appellate Authority has not consider the fact that no loss has been sustained by the authorities. Learned counsel has stated that the only allegation against the petitioner was that the petitioner has diverted the route from a designated route which he had to take due to traffic congestion and that there was no malafides by the petitioner. Learned counsel has therefore, prayed this Hon'ble Court to allow the present writ petition by setting aside the impugned order.

4. *Per contra*, learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition and stated that the authorities have taken action strictly in accordance with the terms and conditions of the agreement entered between the parties. Learned counsel has stated that the authorities have taken action under Clause 4(d) and 4(f) of the agreement. Further, it is stated that the truck of the petitioner was found to have taken a diversion from the designated route therefore, the authorities had to necessarily pass the impugned order.

5. A perusal of the impugned order passed by the Primary Authority shows that the authorities concerned has



passed the order of black-listing for an indefinite period which has subsequently been modified by the Appellate Authority for a period of five years. However, it is to be noted that the Primary Authority has passed the order on 13.07.2018 whereas the Appellate Authority has passed the order on 20.02.2019.

6. A reading of Clause 4(f) of the agreement entered between the parties reads as under;

“If driver/owner of vehicle/any other person deployed by Transporting-cum-handling agent (i.e. Main Transporter) is found indulged in Black Marketing or theft of food grains then punitive action will be taken against the transporter also as per law and will be blacklisted for next five years.”

7. A perusal of the Clause 4(f) shows that the Appellate Authority ought to have passed the order from the date on which the Primary Authority had passed the order i.e. 13.07.2018 if the period of five years is calculated from 13.07.2018 the period of black-listing is already over and nothing remains to be adjudicated in the present writ petition as regard to the black-listing. Though, the counsel for the petitioner has tried to impress upon this Court to set aside the impugned order as it will be stigma on the petitioner from participating in the future tenders. It is to be noted that once the period of black-listing is already undergone, the same cannot be taken as a



ground by the authorities for preventing the petitioner from participating in future tender.

8. Having regard to the above made submissions, the present writ petition is disposed off and the Appellate Authority order dated 20.02.2019, wherein the period of black-listing has been reduced to five years shall be calculated from 13.07.2018. It is further made clear that the above black-listing shall not be a ground for the authorities to prevent the petitioner from participating in future tenders and if any application/tender is made by the petitioner the above black-listing shall not be the ground for rejecting the said tender. It is left open to the petitioner to make a representation to the authority concerned for refund of the security deposit. On such representation being made, the same shall be considered on its own merits and necessary orders passed.

9. With the above direction, the present writ petition stands disposed off.

(A. Abhishek Reddy, J)

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