

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17937 of 2022**

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Ashok Enterprises through its Proprietor Ashok Kumar, Male, Aged about 42 years, S/O Late Shiv Shankar Sah, R/O Village/Post Daud Chappra, PS-Minapur, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Muzaffarpur.
2. The District Transport Committee Through its Chairman, Muzaffarpur.
3. The District Magistrate-Cum-Chairman, District Transport Committee, Muzaffarpur.
4. The Bihar State Food and Civil Supplies Corporation Ltd. Muzaffarpur Through its District Manager, Muzaffarpur.
5. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd. Muzaffarpur, Both having address as Chandralok Market, Naya Tola, PS-Town, District Muzaffarpur-842001.
6. Avdesh Chaudhari, S/o Late Shiv Nandan Chaudhari, Village-Sahopur, Panchayat-Shivdaspur, PS-Katra District-Muzaffarpur.

... .. Respondent/s

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**Appearance :**

|                          |   |                                  |
|--------------------------|---|----------------------------------|
| For the Petitioner/s     | : | Mr.Amit Narayan, Advocate        |
| For the State            | : | Md. Kamil Akhtar AC to AAG-5     |
| For the BSFC             | : | Mr. Shailendra Singh, Advocate   |
| For the Respondent No.6: | : | Mr. Majid Mehboob Khan, 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 : 28-02-2023**

In the instant petition, petitioner has prayed for the following relief:-

*“(i) For quashing Memo No. 1758 dated*

*10.10.2022 (Annexure 5) issued under the signature of the District Manager, Bihar State Food & Civil Supplies Corporation Ltd. Muzaffarpur (R-5) by which the works/tenders of the petitioner have been handed over to other T.D.P.S. agents;*

*(ii) For quashing decision dated 04.11.2022 (Annexure 7) taken by respondents by which the agreement (Annexure 2) of the petitioner with R-4 was terminated and the name of the petitioner has been blacklisted and information thereof has been made to petitioner vide Memo No. 1851 dated 07.11.2022 (Annexure 8) issued under the signature of R-5;*

*(iii) For passing direction/s, order/s to the respondent nos. 1 to 5 to restore the rights, claims, interests, benefits etc in favour of the petitioner in terms of the agreement (Annexure 2);*

*(iv) For prohibiting the respondents to act against the petitioner or to take any coercive action against him during pendency of this application.*

*(v) Any other relief or reliefs may be granted to the petitioner for which it is entitled under law.”*

2. The petitioner was a successful bidder insofar as providing transport-cum-handling agent, Muzaffarpur, such contract was in vogue for a period of three years. Before, completion of three years' period of contract it was terminated on 10.10.2022 based on the allegation that petitioner was manipulating in execution of work contract, which was revealed through video clipping. However, termination of contract is based on serious allegations and petitioner has not been

provided any opportunity of hearing before passing order on 10.10.2022 vide (Annexure-5).

3. Insofar as challenge to the order dated 04.11.2022 communicated vide (Annexure-7), even though it is after notice, however, perusal of (Annexure-7) there is no consideration of petitioner's reply to the show-cause notice. Both (Annexure-5) and (Annexure-7) are amenable to review, therefore, it should have been reasoned order after giving due opportunity of hearing insofar as (Annexure-5) dated 10.10.2022 and further decision on 04.11.2022.

4. Apex Court in the case of **Kranti Associates (P) Ltd. v. Masood Ahmed Khan** reported in **(2010) 9 SCC 496** in Paragraph 47, it is held as under:

*“47. Summarising the above discussion, this Court holds:*

*(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.*

*(b) A quasi-judicial authority must record reasons in support of its conclusions.*

*(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.*

*(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial*

*and quasi-judicial or even administrative power.*

*(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.*

*(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.*

*(g) Reasons facilitate the process of judicial review by superior courts.*

*(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.*

*(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.*

*(j) Insistence on reason is a requirement for both judicial accountability and transparency.*

*(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of*

*incrementalism.*

*(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.*

*(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37] .)*

*(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, “adequate and intelligent reasons must be given for judicial decisions”.*

*(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.*

5. The principle laid down by the Apex Court in the  
aforementioned decision is attracted for the reasons that both

(Annexure-5) and (Annexure-7) are amenable to judicial review. In such circumstances, decision must meet the principle laid down in the aforementioned decision viz., opportunity and reasoned order. Accordingly, the petitioner has made out a *prima-facie* case so as to interfere with (Annexure-5) and (Annexure-7). They are set aside reserving liberty to the concerned respondent to proceed in accordance with law after giving ample opportunity of hearing to the petitioner. In the meanwhile, petitioner shall be permitted to execute the work allotted to him till final decision is taken, for the reasons that interim arrangement has been made by the respondent and it has not resorted to fresh tender process. The above exercise shall be completed within a period of three months from the date of receipt of this order.

6. Writ petition is allowed.

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

**( Arun Kumar Jha, J)**

Himanshu/  
Daya/-

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