

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17397 of 2022

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1. Har Har Shankar Kuwar son of Ram Pukar Kuwar, Resident of Ward No. 5, Lagunia Raghu Kanth, Police Station-Samastipur Town, District-Samastipur, Pin No.-848123.
 2. Manoj Kumar Thakur, Son of Sahdeo Thakur, Resident of 101, Amirganj, Dharampur, Police Station-Samastipur Town, District-Samastipur, Pin No.-848123.
 3. Jitendra Jha, Son of Krishna Bhagwan Jha, Resident of Ward No.-11, Jhakhra, Police Station-Samastipur Town, District-Samastipur, Pin No.-848123.
 4. Kulanand Jha, son of Ram Sagar Jha, Resident of 79, Sarai Ranjan Gaupur, Bhagwatpur, Police Station-Sarairanjan, District-Samastipur, Pin No.-848127.
 5. Pankaj Kumar son of Krishna Kant Poddar, Resident of Ward No. 11, Shahpur, Police Station-Khanpur, District-Samastipur, Pin No.-848236.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supply Department, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Food and Civil Supply Department, Government of Bihar, New Secretariat, Patna.
3. The District Transport Committee, Samastipur, through its Chairman, District Magistrate, Samastipur.
4. The District Transport Committee, Samastipur.
5. The District Magistrate, Samastipur.
6. The Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Rai Path, R-Block, Road No. 2, Patna-800001 (BIHAR).
7. The Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Khadya Bhawan, Daroga Rai Path, R-Block, Road No. 2, Patna-800001 (BIHAR).
8. The Head Quarter Transport Committe Khadya Bhawan, Bihar State Food and Civil Supplies Corporation Limited, Daroga Rai Path, R-Block, Road No. 2, Patna-800001 (BIHAR).
9. The District Manager, Bihar State Food and Civil Supplies Corporation Limited, Samastipur.

.. ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeet Kumar, Advocate
For the Respondent/s	:	Mr. Alok Ranjan, AC to AAG 5
For BSFC	:	Mr. Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)



Date : 05-09-2023

Heard learned counsels for the respective parties.

2. In the instant writ petition, petitioners have prayed for the following relief/reliefs:

“That the present writ petition is being filed for direction upon the respondents particularly upon the Managing Director, Bihar State Food and Civil Supplies Corporation Limited, to take appropriate action against the District Transport Committee, Samastipur, for not complying the order and directions passed in Order contained in Memo No. 8031, Dated – 16.11.2021, passed by Head Quarter Transport Committee of the Bihar State Food and Civil Supplies Corporation Limited.

It is stated that vide order contained in Memo No. 8031, dated 16.11.2021, Head Quarter Transport Committee Directed District Transport Committee, Samastipur to again verify and evaluate the technical and financial bid of the selected Door Step Delivery Agents and further take appropriate steps against those selected Door Step Delivery Agents, for not being qualified in terms of NIT and has been selected on the basis of forged and fabricated documents.”

3. Pursuant to NIT dated 08.07.2020 insofar as Transportation-cum-Handling and Delivery Contractors for Door Step Delivery of Food Grains, 14 persons were declared qualified in the technical bid. Thereafter, it has been noticed that 13 persons are having valid documents. After further scrutiny six persons have been selected. Consequently, an agreement was executed on



23.08.2021. In this backdrop, the petitioners who were unsuccessful bidders filed representation/objection on 21.09.2021. The same was not adjudicated by the concerned authority which resulted in filing representation before the Managing Director on 23.09.2021.

4. Thereafter, the Managing Director issued certain directions to the District Transport Committee on 16.11.2021. In this backdrop, the concerned officials have taken a decision to terminate the contracts of six persons on 31.07.2023. It is also reliably learnt that the official respondents have proceeded to issue fresh NIT in respect of remaining period of contract. Therefore, the present petition has become virtually infructuous.

5. However, learned counsel for the petitioners submitted that the official respondents have illegally proceeded to award contract in favour of six persons. Despite pointing out that there were certain defects in respect of selected persons on 21.09.2021, the concerned authorities have taken two years time to cancel the contract.

6. *Prima facie*, there is inaction on the part of the official respondents in not taking note of the petitioners' representation/objection of 21.09.2021 and permitted the selected bidders to execute the contract for a period of about two years.



Due to such action and the fact that grievance of the petitioners have been redressed to some extent, present petition stands disposed of with a cost of Rs. 25,000/- (Rupees Twenty Five Thousand) on the respondents. Cost shall be paid to the petitioners within a period of eight weeks from the date of receipt of copy of this order.

7. The concerned authority being a State under Article 12 of the Constitution was required to follow Article 14 of the Constitution insofar as initiation and completion of the NIT proceedings. In the present case even though they have noticed that there were certain defects insofar as successful bidders' documents and their eligibility, still they have been awarded work. That apart, they have taken two years time to rectify the mistake committed by them and cancelling the illegal contracts Managing Director may identify the officials who are all responsible and take action against them while providing ample opportunity of hearing to them or in accordance with law.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.09.2023
Transmission Date	NA

