

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1267 of 2019

In

Civil Writ Jurisdiction Case No.8251 of 2019

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Dinkar Choudhary, S/o Sri Raja Ram Chaudhary, Resident of Bagwara, Post Office- Suhird Nagar, Police Station- Muffashil, District- Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar through District Magistrate, Khagaria.
2. The District Magistrate, Khagaria.
3. The District Magistrate- cum- Chairman, District Transport Committee, Khagaria.
4. The Deputy Development Commissioner, Khagaria.
5. The Additional Collector, Khagaria.
6. The District Transport Officer, Khagaria.
7. Bihar State Food & Civil Supply Corporation Ltd., Khadya Bhawan, Daroga Rai Path, R. Block, Road No. 2, Patna.
8. The Managing Director, Bihar State Food & Civil Supply Corporation Ltd. Khadya Bhawan, Daroga Rai Path, R. Block, Road No. 2, Patna.
9. The District Manager, Bihar State Food & Civil Supply Corporation Ltd., Khagaria.
10. M/s R.S. Construction, Shashi Palace, Hemra Road, Ward no. 20, Begusarai.
11. Sri Vikash Kumar, Son of Sri Srinath Singh, Resident of Village- Ramdaouli, District- Vaishali (Bihar), Pin-844503.

... .. Respondent/s

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Appearance :

For the Appellant/s : None

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-12-2023

Despite our calling the matter in the morning and then later on, for hearing in the second half, none appeared for the appellant. In fact, earlier also none appeared for the appellant on



the ground that the Advocate is undergoing his monthly treatment outside Patna and another Division Bench by order dated 22.03.2021 clarified that no further adjournment shall be granted.

2. The appellant in the above case was concerned with a decision of the District Transport Committee, Khagaria to invite re-tender for appointment of Transport-cum-Handling Agent for the revenue district of Khagaria.

3. Admittedly, there was a tender issued in which the appellant had participated. One of the participants had filed CWJC No. 22336 of 2018, on the objections raised against one of the tenderers being rejected. This Court by judgment dated 27.03.2019 interfered with the decision of the District Transport Committee including the execution of agreement with one of the respondents and directed the District Transport Committee to either take a fresh decision or go for a re-tender and complete the whole process of selection afresh within 45 days. The District Transport Committee went for a re-tender and issued a fresh advertisement.

4. It was at this point that two tenderers approached this Court again with two separate writ petitions which were disposed of by the impugned common order. One of the writ



petitioners is before us in appeal.

5. Before the learned Single Judge, the first contention taken by the appellant was that when this Court directed a fresh decision to be taken; first the tenders already submitted had to be examined and a decision taken on that and only then could there be a fresh tender issued. The learned Single Judge rejected the contention and we find it to have been rightly rejected. After interfering with the process of tendering and even the execution of an agreement, the District Transport Committee was given liberty to either take a fresh decision or go for a re-tender. Definitely, this is in the alternative and the District Transport Committee decided to go for a re-tender, which decision cannot be faulted; as found by the learned Single Judge, since it is within the exclusive domain of the awarder to decide on whether to go for a re-tender or pursue the tenders already submitted before it.

6. We find no reason to differ from the findings of the learned Single Judge in so far as there being no valid ground to interfere with the fresh tender issued by the District Transport Committee.

7. Learned counsel for the appellant then made a submission before the learned Single Judge that since there was



an interim order in the writ petition that any action taken would be subject to the result of the writ application; the appellant also be permitted to participate in the re-tender.

8. Pertinently, the appellant had not participated in the re-tender which he could have done even if there was no such interim order passed. We are of the firm opinion that no such prayer could have been made before the learned Single Judge after having not participated in the re-tender, which the appellant could have done even without a writ petition filed or the order obtained in the same. If the appellant had chosen not to participate in the re-tender then the result of the writ petition would enure to the benefit of the appellant only if the initial tender was directed to be proceeded with by the Writ Court. Obviously, the same was not done and the Writ Court had dismissed the writ petition.

9. Even then, the Writ Court had directed the District Transport Committee to consider the appellant also by allowing him to participate in the bids by issuing necessary corrigendum if the tenders have not been finalized. The Court specifically observed that the order was passed to balance the legal issues as well as the equity, which we find is an indulgence granted to the petitioner in the writ petition. We find no reason to further



consider any appeal against the directions issued in the
impugned order.

10. The appeal stands dismissed.

11. Interlocutory Application(s), if any, shall stand
closed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	12.12.2023
Transmission Date	

