

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18363 of 2022

=====

Ram Balak Kumar @ Rambalak Kumar Son of Sri Jageshwar Yadav Resident of Village- Patuana, Police Station- Bihar Sharif, District- Nalanda having its local office.- Mohalla- Khajasarai, Police Station- Laheri Sarai, District- Darbhanga.

... .. Petitioner/s

Versus

1. The Bihar State Warehousing Corporation having its Head Office at Block B-2, 1st Floor, Maurya Lok Complex, P.S.- Kotwali, District- Patna through its Managing Director,
2. The Managing Director, Bihar State Warehousing Corporation having its Head Office at Block B-2, 1st Floor, Maurya Lok Complex, P.S.- Kotwali, District- Patna.
3. The Centre In-Charge, Bihar State Ware Housing Corporation, Singheshwar Asthan, Madhepura.
4. The General Manager (R), Food Corporation of India, Arunachal Bhawan, 4th Floor, Exhibition Road Area, Near Exhibition Road Chauraha, Patna- 800001.
5. The Divisional Manager, Food Corporation of India, Saharsa, Bihar.
6. J.M.D. Enterprises through its Proprietor Umesh Kumar Jaiswal S/o Late Ram Narayan Lal, Mohalla- Indrapuri, Road no. 2A/51, Text Book Colony, P.S.- Patliputra, District- Patna, (Reg. No. BUSS/CORD/2021-22/TH-93.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ram Binod Singh, Advocate
For the Respondent No. 1-3: Mr. Mithilesh Kumar Rai, Advocate
For the Respondent No. 6: Mr. Satyendra Narayan Singh, Advocate

=====



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

Date : 21-07-2023

1. Learned counsel for the petitioner is hereby permitted to delete the Respondent Nos. 7 and 8 during the course of the day, since the petitioner is of the view that they are not the necessary and proper party to this proceeding.

2. In the instant petitioner, petitioner has prayed for the following relief:

“ a. For issuance of an appropriate Writ/s, order/s, direction/s in the nature of certiorari quashing the said decision of the Respondent Bihar State Warehousing Corporation by which the Tender pursuant to (Notice Inviting Tender) NIT No. TH-01/2021-22 for appointment of Transporting & Handling Contractor to carry out Handling & Transporting works attached to Singheshwar Asthan Warehousing Centre has been allotted in favour of Respondent No. 6.

b. For issuance of an appropriate Writ/s, order/s, direction/s in the nature of certiorari quashing the Letter of Award (hereinafter referred to as LOA) and consequent execution of contract Agreement by the Respondent



Bihar State Ware Housing Corporation in favour of Respondent No. 6 pursuant to its Notice Inviting Tender (NIT) No. TH 01/2021-22 and consequently declare the said LOA and Contract Agreement to be null & void and inoperative and forfeit the earnest money as well as security deposit amount and blacklist the Respondent No. 6 from future participation in any Bid.

c. For issuance of an appropriate Writ/s, order/s, direction/s in the nature of certiorari quashing the work order as communicated by the Managing Director of Bihar State Warehousing Corporation to the Respondent No. 6 by letter bearing no. 249 dated 28.01.2022 by which Respondent No. 6 has been appointed as Transporting & Handling Contractor for the period of Agreement i.e. 01.02.2022 - 31.01.2024.

d. For issuance of an appropriate Writ/s, order/s, direction/s in the nature of Mandamus commanding the Respondent Bihar State Ware Housing Corporation to reconsider the entire bids pursuant to Notice Inviting tender (NIT) No. TH 01/2021-22 and award the contract in its favour and appoint the Petitioner as Transporting & Handling Contractor to carry out handing and transporting works attached to BSWC Singheshwar Asthan Warehousing Centre as the petitioner is the sole Bidder who fulfills all the terms of MTF and duly qualifies for the aforesaid Bid.

e. For issuance of an appropriate Writ in



the nature of certiorari quashing the Registration of the respondent no. 6 with the Bihar State Warehousing Corporation bearing Registration No. BUSS/CORD/2021-22/TH-93.

f. For issuance of any other order/orders or relief/reliefs for which the Petitioner may be found to be entitled in the facts and circumstances of the case.”

3. Learned counsel for the petitioner submitted that the present matter is identical to that of Naveen Kumar Singh Case decided on 10.07.2023 in CWJC No. 13501 of 2022. It is also submitted that the 6th Respondent- JMD Enterprises is common in the Naveen Kumar Singh case (supra) and the present case. It is also submitted that NIT is common. Only the places of godown are different .

4. In the light of the judgment in Naveen Kumar Singh, the present petition stands Allowed, by quashing the order dated 28.01.2022.

4. At this stage, learned counsel for the Corporation submitted that the Corporation have taken a decision to de-hiring of BSWC Singheshwar Godown (2300 MT). Therefore, the present petition does not survive for consideration.

5. Such submission cannot be accepted for the reason that the 6th Respondent has already executed the work



from the date of issuance of work order. In the event of non-execution of any work by the 6th Respondent insofar as the present case relating to BSWC Singheshwar Godown as on today and the same shall not be renewed to the benefit of the 6th Respondent with reference to subject matter of NIT. At best, the concerned Respondent Corporation is permitted to proceed with a fresh NIT, if it is warranted.

5. With the above observation, the present writ petition is Allowed.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

skm/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.07.2023
Transmission Date	NA

