

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5439 of 2022

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Amit Kumar Singh, Son of Shri Hira Lal Singh, Resident of Village -
Laxmipur Kakdiyan, P.O. - Dighwarar, District - Saran, Bihar - 841207.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
3. The Secretary Food and Consumer Protection Department, Government of Bihar, Patna.
4. The Officer on Special Duty, Food and Consumer Protection Department, Government of Bihar, Patna.
5. The Additional Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
6. The Link Well Telesystems Private Limited, 1-11-252/1B, Behind Shoppers Stop Begumpet, Hyderabad - 500016.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Sr. Advocate Mr. Anjani Kumar Jha, Advocate
For the Respondent/s	:	Mr. Alok Ranjan, AC to AAG-5 Mr. Ashok Kumar Karna, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-01-2024

The petitioner, allegedly in public interest, challenged the award of a contract by which a System Integrator (SI) was appointed to supply, install and maintain PoS devices in the Public Distribution Shops (for brevity, PDS), based on an application developed by the National



Informatics Centre, (for brevity, NIC). The petitioner was aggrieved with the manner in which the selection was made, alleged to be in violation of the guidelines issued by the NIC, and the pre-qualification having been tailor made, for selection of the additional 6th respondent, who alone fulfills the criteria of the Department of Scientific and Industrial Research (DSIR).

2. The petitioner in the writ petition itself submitted that four companies had submitted the bidding documents, from which two were shortlisted, out of which the 6th respondent was selected. The petitioner's contention was also that the documents submitted by the shortlisted bidders relied on the apparatus supplied by the 6th respondent, which makes the bid a single bid; which could not have been accepted and had to be repeated. The petitioner in the writ petition also challenged the order passed in pursuance of a direction issued by this Court in a similar writ petition.

3. Having heard the learned counsel for the petitioner and perused the records, we were *prima facie* not inclined to proceed with the matter, especially noticing the fact that the entire work had been completed. The petitioner also made a casual statement that when the petitioner



approached the PDS shop seeking delivery of goods on cashless payment, the same was denied. There is nothing stated in substantiation of the said contention but for producing Annexure-1 extract of the ration card which, it has to be presumed, belongs to the mother of the petitioner, but, however, there is nothing stated as to how the petitioner is entitled to approach the PDS shop on behalf of his mother especially to carry out a cashless purchase, though he is included as Serial No. 2 in the ration card.

4. We were also not convinced that Annexure-4 order of this Court accepted the contentions of the petitioner. On 24.01.2024, after the matter was heard, we directed the learned counsel for the petitioner to enquire from the petitioner as to whether he would like to continue with the writ petition and posted it for the next day.

5. On 25.01.2024, when the matter was called, learned Senior Counsel Smt. Nivedita Nirvikar appeared on behalf of the petitioner and sought an adjournment. We refused and specifically asked the learned Senior Counsel whether she was informed of what transpired in this Court on the previous day. The learned Senior Counsel admitted that she was informed of the same on the previous day and hence,



we proceeded to hear the matter.

6. At the outset, it has to be noticed that the 6th respondent has filed an affidavit on 02.01.2023, categorically stating that on 13.01.2019, the agreement was executed with the Food and Consumer Protection Department, Government of Bihar, Patna, and on 14.09.2019, the work order was issued; which documents were produced as Annexure-PR/1 and PR/2. The work of installation was thus commenced, and e-POS machines were installed at all the PDS shops in the State of Bihar by 7th of December, 2019, after which, at the instructions of respondent no. 3, the system has 'gone live'. The certificate issued by the Department is produced as Annexure-PR/3. As per the said document, the system 'went live' as on 01.01.2020 and the implementation of 'Aadhaar Based FPS Automation for Food and Consumer Protection Department, Bihar' had been completed. Despite the counter affidavit dated 02.01.2023, there is no rebuttal filed by the petitioner to the specific averments therein.

7. In this context, we have to notice that even at the earlier instance, the petitioner had approached this Court with *C.W.J.C. No. 14048 of 2021* titled as *Amit Kumar v. State of Bihar & Ors.* which was disposed of by Annexure-4



dated 06.09.2021. Another division bench which heard the matter referred to the judgment of the Hon'ble Supreme Court in ***D.N. Jeevaraj Vs. Chief Secretary, Government of Karnataka & Ors, (2016) 2 SCC 656***, wherein the *bona fides* of a PIL and the legitimacy of the prayer of issuance of *mandamus* was considered. After referring to the judgment, portions of which were extracted in the order, the Division Bench observed that the petitioner was content with a direction to be issued to the authority concerned to look into a representation which the petitioner would file within a period of four weeks.

8. Obviously, the division bench was not inclined to entertain the writ petition filed as a PIL and only as a matter of indulgence, the petitioner was directed to file a representation.

9. The representation filed was disposed of by Annexure-8, which was on 23.11.2021. It is noticed in Annexure-8 that the petitioner's contention in the representation was also of a cashless purchase having been declined by the PDS dealer.

10. The authority has considered the issue, raised in the representation, at Annexure-8 and has referred also to



the tender process by which the System Integrator was selected. It has also been mentioned that it was after one year of completion of the tender process, the challenge has been raised. We find absolutely no reason to sustain the challenge raised against Annexure-8 order also.

11. We had cautioned the petitioner from proceeding with the matter at the initial stage itself. We had also granted the counsel time to consult the petitioner to decide on continuing with the matter, after *prima facie* noticing that the entire tender process was completed. The petitioner has chosen to engage a Senior Counsel and further agitated the cause.

12. We find the attempt to be a publicity induced litigation, and there is no public interest involved. The petitioner has taken considerable time of this Court, and on the finding that it is a clear abuse of process of law, we impose a cost of Rs. 25,000/- on the petitioner to be paid to the Bihar State Legal Services Authority. The petitioner shall pay the said amount within a period of one month, and if not, the Bihar State Legal Services Authority shall be entitled to proceed for recovery by taking measures similar to recovery of arrears due on land through the District Magistrate, in



which event the petitioner shall be liable for the charges incurred for making such recovery, which have to be recovered by the State.

13. The writ petition stands dismissed with exemplary costs as above.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

aditya/-

AFR/NAFR	
CAV DATE	
Uploading Date	02.02.2024.
Transmission Date	

