

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8180 of 2024

Umakant Thakur, Son of Sri Ramvilash Thakur, Resident of Village-
Indragachhi, Police Station- Sangrampur, District- East Champarn.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Civil Supplies Department, Government of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Bihar State Food and Civil Supply Corporation, Khadya Bhawan, Daroga Rai Path, R. Block, Road No. 2 Patna through its Managing Director.
4. The Managing Director, The Bihar State Food and Civil Supply Corporation, Khadya Bhawan, Daroga Rai Path, R. Block, Road No. 2, Patna.
5. The District Manager, Bihar State Food and Civil Supply Corporation Ltd., Muzaffarpur.
6. The Additional District Manager, Bihar State Food and Civil Supply Corporation Ltd., Muzaffarpur.
7. The Assistant Manager, CMR Godown, Kudhani, Bihar State Food and Civil Supply Corporation Ltd., Muzaffarpur.
8. The District Transport Committee through its Chairman- cum-District Magistrate, Muzaffarpur.
9. Chairman-Cum-District Magistrate, District Transport Committee, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sanjeet Kumar, Adv.
For the Respondent/s	:	Mr.Government Pleader (6)
For the BSFC		Mr. Shailendra Kumar Singh, Adv.
		Mr. Utkarsh Utpal, Adv.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

5 24-07-2024

Heard learned counsel for the parties.

2. The present writ petition has been filed for the
following relief(s):-

“ (I) For quashing the office order contained
in memo no. 563 dated 28.04.2024, issued under



the signature of the District Manager, Bihar State Food & Civil Supply Corporation Ltd. (Herein after to be referred as "Corporation"), Muzaffarpur whereby and where under the petitioner has been relieved from the work of Transporting, Handling cum Delivery Agent (DSD), Muzaffarpur.

The aforesaid impugned order has been passed in the light of the opinion rendered by the Additional District Manager and Assistant Manager, CMR Godown, Kudhani and the said order also mention on FIR that has been lodged against the petitioner bearing Sakra P.S. Case No. 239/24 registered on 27.04.2024.

The aforesaid impugned order dated 28.04.2024 is not sustainable in the eye of law as the same has been issued without giving any show cause notice to the petitioner; coupled with the fact that the order does not contain any expressed reason for such drastic penal action having civil consequences and further District Manager of the Corporation, Muzaffarpur has no jurisdiction to pass such order.

*A photo copy of the memo no. 563 dated 28.04.2024 is annexed herewith and marked as **Annexure-P/1** to this petition.*

(II) For directing the concerned authority to allow the petitioner to work as



Transporting, Handling cum Delivery Agent (DSD) for the remaining period left, as per the agreement reached between the petitioner and corporation”.

3. Learned counsel appearing on behalf of the petitioner has stated that the impugned order dated 28.04.2024 (Annexure P-1) is passed by the authority concerned without issuing any show cause notice or calling for any explanation from the petitioner. Learned counsel has further stated that the respondents have violated the terms and conditions of the Transport Policy 2023 more specifically clause 7, which mandates that the Respondent No. 5, i.e., the District Manager, Bihar State Food and Civil Supplies Corporation Ltd. was obligated to await the recommendation of the District Transport Committee before taking any action but in this particular case the impugned order has been passed without awaiting the recommendation of the District Transport Committee. Further it is stated that because of the termination orders passed by the District Manager the petitioner would not be eligible to participate in fresh tender. Learned counsel has therefore prayed this Hon'ble Court to set aside the impugned order and remand the matter back to the appropriate authority, i.e., the District Transport Committee (Respondent No. 8) for taking action



strictly in accordance with law.

4. Per contra, the learned counsel appearing on behalf of the Bihar State Food Corporation (BSFC) has vehemently opposed the very maintainability of the present writ petition and has stated that the order which is impugned in the present Writ Petition in accordance with the provisions of the Act. Learned counsel has stated that the District Manager based on the final report filed by the police in the criminal case instituted against the petitioner has taken action and the order impugned is not bad. Further it is stated that the contract period of the petitioner is already over and even the extension period given is also over. That, the present writ petition is liable to be dismissed on the ground that the relief sought for by the petitioner has become infructuous and therefore prayed this Hon'ble Court to dismiss the present Writ Petition.

5. A perusal of the order passed by the District Manager reveals that the impugned order is passed without issuing any show cause notice to the petitioner or giving any opportunity for filing any explanation before passing of the impugned order. This Court as well as the Hon'ble Supreme Court in a catena of cases has time and again held that before taking any action against any person which will have serious



civil consequences, the authorities are bound to put the person on prior notice and call for his explanation and thereafter pass order. In the absence of the same, the action taken by the respondents has to be constrained as in violation of Principles of Natural Justice and equity.

In Raghunath Thakur v. State of Bihar and Ors.,
reported in **Air 1989 SC 620**, it was held as follows:

“4. Indisputably, no notice had been given to the appellant of the proposal of blacklisting the appellant. It was contended on behalf of the State Government that there was no requirement in the rule of giving any prior notice before blacklisting any person. Insofar as the contention that there is no requirement specifically of giving any notice is concerned, the respondent is right. But it is an implied principle of the rule of law that any order having civil consequence should be passed only after following the principles of natural justice. It has to be realised that blacklisting any person in respect of business ventures has civil consequence for the future business of the person concerned in any event. Even if the rules do not express so, it is an elementary principle of natural justice that parties affected by any order should have right of being heard and making representations against the order.”



Further it is to be noted that the District Manager without awaiting the recommendations of the District Transport Committee has passed the impugned order contrary to Clause 15 of the Transport Policy 2023 and on this ground also the impugned order is liable to be set aside.

6. Having regard to the above made submissions, the impugned order dated 28.04.2024 is set aside. The matter is remanded back to the appropriate authority, i.e., the District Transport Committee (Respondent No. 8) for taking any action strictly in accordance with law. In case the official respondents want to take any action they are free to do so strictly in accordance with law duly putting the petitioner on notice and calling for his explanation and giving him an opportunity of hearing.

7. With the aforesaid directions, the present Writ Petition stands disposed of.

(A. Abhishek Reddy , J)

Bhardwaj/-

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