

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.461 of 2021

In

Civil Writ Jurisdiction Case No.8323 of 2020

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1. The Bihar State Food and Civil Supply Corporation Ltd. through its Managing Director, Bihar at Patna.
 2. The Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., Bihar at Patna.
 3. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd., Nalanda, District- Nalanda.
 4. General Manager, Public Distribution Food and Consumer Protection, Bihar at Patna.
 5. Deputy General Manager, Bihar State Civil Supplies Corporation, Bihar at Patna.

... .. Appellant/s

Versus

1. Suveer Kumar Pardeshi, Son of Prem Kumar Pardeshi Resident of Jakariyapur, behind Krishna Niketan School, Dhanuki, P.S. Agamkuan, District Patna permanent resident of Village Mahmadpur, Balwa, P.S. Harnaut, District- Nalanda.
2. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar at Patna.
3. The Principal Secretary, Food and Consumer Protection Department, Bihar at Patna.
4. District Transport Committee through its Chairman, Nalanda, District Nalanda.
5. The District Magistrate-cum-Collector-cum-Chairman, District Transport Committee, Nalanda, District Nalanda.
6. The Deputy Development Commissioner-cum-Deputy Chairman, District Transport Committee, Nalanda.
7. District Transport Officer-cum-Member, District Transport Committee, Nalanda, District Nalanda.



... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anjani Kumar, Sr. Advocate
Mr. Shailendra Kumar Singh, Advocate
For the Respondent/s : Mr. S.Raza Ahmad, AAG-5
Mr. Alok Ranjan, AC. To AAG-5

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-12-2024

Re: I.A. No. 02 of 2024

The Interlocutory Application has been filed for condoning the delay of 145 days in filing the memo of appeal.

2. Having gone through the affidavit, we are satisfied that there are sufficient grounds shown to condone the delay.

3. As such, we condone the delay in filing the memo of appeal and allow the Interlocutory Application.

Re: LPA No. 461 of 2021

4. The appellant is concerned with the judgment of the learned Single Judge, which found the cancellation of a contract for transportation under the PDS Scheme, to be bad.

5. Brief facts to be stated are that the writ-petitioner applied for the selection as a Transportation-cum-Handling



Contractor (Main) in a Notice Inviting Tender (NIT) issued by the Chief District Transport Committee, Nalanda. The writ-petitioner qualified in the technical and financial bid, and by Annexure-P/7, a letter was issued to the writ-petitioner for entering into an agreement for issuance of work order in his favour. However, later, Respondent No. 10, the General Manager, had issued a letter to the District Magistrate, Nalanda that the writ-petitioner's tender was in violation of Clause 8(iii) (f) of the NIT, since the writ-petitioner had been working as a Transportation-cum-Handling Contractor in the district of Giridih in the State of Jharkhand.

6. The learned Single Judge found that Clause 8(iii) (f) of the NIT is operational only if there are more than one district published in the same NIT. It was also observed that even if it is otherwise, there is no ground of cancellation since the clause taken to its logical interpretation would only result in disqualification of a tenderer, who has an identical contract in any other district of the State of Bihar.

7. We are inclined to accept the finding of the learned Single Judge that the clause, which reads as "she/he/they have neither been selected nor are working in more than one district", would only apply to the districts within the State of Bihar; the



clear intention being to ensure that there is no pilferage or diversion of the supplies made under the PDS Scheme. The clause does not extend to another State as specifically stated therein nor would a logical interpretation lead to any other consequence.

8. We were of the definite opinion that the appeal is without merits, in which circumstance, the learned Senior Counsel appearing for the Corporation would submit that the interpretation, that it would apply only if there are more than one district notified in the NIT, cannot be sustained.

9. We agree with the learned Senior Counsel, insofar as there being no condition that there should be more than one district, where the Transportation-cum-Handling Contractor is to be selected, in the identical NIT, for the clause to apply. Admittedly, in the said NIT, there was only one district notified and the availability of the clause in the NIT restricts only a person who is selected or awarded a contract, in any other district, within the State of Bihar to make an application under the NIT. We are of the opinion that this change in interpretation does not require the presence of the writ-petitioner, and we modify the judgment of the learned Single Judge to this extent. The cancellation of award of contract, as set aside by the learned



Single Judge, is confirmed.

10. The appeal is allowed in part.

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

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

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CAV DATE	
Uploading Date	09.12.2024
Transmission Date	

