

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 4171 of 2017

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Ravi Transport Agency S/o Shiv Magal Tiwry at Narayanpur Anant, Sherpur,
P.O.-MIC, Bela, Distt.- Muzaffarpur though its proprietor Ravi Shankar
Tiwari S/o Shiv Mangal Tiwary

... .. Petitioner/s

Versus

1. Food Corporation Of India
2. General Manager R, Food Corporation of India Regional Office, At
Arunachal Bhawan Exhibition Road,

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar Ambastha, Adv. Mr. Rakesh Bihari Sharma, Adv.
For the Respondent/s	:	Mr. Prabhakar Tekriwal, Adv.
For the FCI		Mr. P.K. Verma, Sr. Adv. Dr. Mankeshwar Tiwari, Adv.

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 05-05-2025

1. The Writ petition is filed for following
reliefs:-

*(a). That, this application is
being filed for issuance of a
Writ in the nature of Writ of
Certiorari or any other
appropriate writ, order/
direction for quashing the
order contained in Memo No.
4620 dt. 23.09.2016 passed
by General Manager(R) Food
Corporation of India,
Regional Office, Patna by*



which the application dt. 21.06.2016 of the petitioner has though been partially allowed but illegally that amount has been adjusted against the fictitious claim of the Food Corporation of India (b). That, the petitioner further prays for issuance of Writ of Mandamus Commanding the respondents to pay Rs. 54,65,274/- (fifty four lac sixty five thousand two hundred and seventy four).

2. The brief facts culled out from the Writ petition are that the petitioner is a contractor of Food Corporation of India carrying out handling and transportation work at District Office of Motihari, Chapra and Muzaffarpur under the respondent corporation.

3. It is specifically contended that the petitioner is carrying out his works for a long time with full integrity and satisfaction of the



respondent authorities. The work of handling and transportation involves loading and unloading of grain bags from railway racks at various railway stations and transporting them to godown of the respondent corporation.

4. It is further contented by the Learned counsel that the respondents have not released the payment of the petitioner's bill submitted after May, 2012.

5. Upon inquiry, the petitioner came to know that a letter dated 14.08.2012 has been issued by the respondent No. 2, to all the Area Managers, of Bihar Region to withhold the payment of the petitioner until further orders, due to the Special Audit of FSD/Chanpatia under D.O. Motihari for the period from 21.10.2011 to 21.05.2012 conducted by 'team headquarters' wherein they found serious lapses on the part of the petitioner and other contractor.



6. It is also contended that the petitioner was never informed about this order and no notice or show cause was ever issued to him.

7. The petitioner had earlier addressed to the respondents that his contract has be renewed after 20.07.2012. It is also contended by the Learned counsel for the petitioner that the petitioner had no intention for renewing his contract after a period of three months from 20.07.2012.

8. The petitioner also sent a legal notice to respondent No. 1 dated 24.08.2012, requesting for release his payments within fifteen days of receipt of the notice, failing which he would approach before appropriate forum.

9. After receiving the legal notice, the respondent No. 2 issued a letter dated 03.10.2012 directing all the Area Managers to release the regular bills for the work



carried out subsequent to the issuance of impugned letter.

10. The petitioner contends that a total amount of Rs. 54,65,274/- is payable by respondents and being aggrieved by it, he preferred CWJC No. 5360 of 2013 seeking a direction to quash the letter dated 14.08.2012. This Court on merits decided the case on 26.04.2016 by quashing the letter dated 14.08.2012, with a direction to the respondent No. 1 to hear the petitioner and dispose of his claim.

11. Subsequent to that, the petitioner filed a fresh representation on 21.06.2016, reiterating his entire claims along with the order dated 26.04.2016 of this Hon'ble Court. Later, the respondent No. 1, passed the impugned order.

12. It is specific contention of the Learned counsel for the petitioner that the order was passed in a mechanical way and the first respondent allowed part of the claim



of the petitioner to a tune of Rs. 21,21,775/- and illegally adjusted and withheld his amounts. Further, the respondent corporation has filed a money suit before the Learned Sub-Judge, Motihari, which is still pending before the Court.

13. The present Writ petition is filed to quash the impugned order of the Food Corporation of India, Regional Office, Patna dated 23.09.2016 passed by the General Manager, FCI.

14. A detailed counter affidavit was filed by the respondent No. 1 denying all the allegations made in the Writ petition except which are specifically admitted. The counter affidavit disclose that audit transaction was for the period of 21.07.2010 to April, 2012.

15. The audit team referred as follows:-

(i) *Payment of transportation charges to the petitioner on fictitious movement of stock from railhead to Depot-Rs. 1,00,99,675/-.*



(ii) Excess payment of H&T Contract at Railhead, Bettiah for unloading and loading by considering fictitious stacking operation at platform Rs. 32,91,809/-

(iii) Total loss due to payment to H&T Contractor on possible fictitious 105 ICCS weighment allowed to contractor Rs. 2,45,000/- total loss of FCI due to above operations Rs. 1,36,36,484/-

16. The counter affidavit further disclose that as directed by the headquarters Audit Team conducted audit for a period of nearly twenty one months of the whole contractual period of H&T contractor, M/s Ravi Transport Agency findings were recorded. The contractual period was from 21.07.2010 to 20.10.2012. During twenty one months, losses detected amounted to nearly Rs. 1,36,36,484/-.

17. After the Headquarters Audit Report, an investigation was conducted by the Regional Office team to fix responsibility regarding the excess payments made to the



H&T contractor for the said period. The regional team submitted its report dated 24.12.2012. In the report, it is clearly stated that excess billing was done by the contractor with the connivance of staff posted at Railway Siding, Bettiah; Depot In-Charge, FSD, Chanpatia; and BSFC.

18. In view of the above, the EMD/SD amount of the petitioner, M/s Ravi Transport Agency, was withheld pending fixation of responsibility on the H&T contractor and recovery of liabilities of FCI from the petitioner.

19. Further, the counter affidavit discloses that a money suit was also filed before the Sub-Judge, Civil Court, Motihari, for recovery of Rs. 1,59,61,420/- against the petitioner, who was found involved in fraud and was also named in the charge sheet. Departmental proceedings were initiated against those involved. Upon being found guilty of the charges, major penalties were



imposed on the delinquents for making payments against fictitious transportation of food grains from Railhead, Bettiah, to FSD, Chanpatia, during the period 20.10.2011 to 21.05.2012. Pursuant thereto, the Area Manager, Motihari, Shree A.K. Paswan, was dismissed from service; Shree Suresh Lakara, Area Manager, was reduced to the initial stage of the time scale; and Shree P.N. Singh, Area Manager, was compulsorily retired with a token recovery of Rs. 3 lakhs from his retirement dues.

20.It is also submitted that all bills of the petitioner agency drawn up to April 2012 were paid. Thereafter, when the report of the Headquarters Audit Team was received in May 2012, hardly any work was performed by the petitioner warranting further payment. In May 2012, only one missing wagon had been unloaded and transported by the petitioner, for which the bill was not claimed despite repeated requests.



Additionally, the bills for June 2012 were received by the District Officer on 05.07.2012 but were returned with queries vide letter dated 10.07.2012. The petitioner resubmitted the bill on 21.08.2012. In the meantime, the Regional Office, FCI, Patna, issued a letter dated 14.08.2012 stopping all payments. However, directions were given on 03.10.2012 by the Regional Office to release the bills for work performed after 14.08.2012. Admittedly, no work was done by the petitioner after 14.08.2012. Hence, the question of any bills after that date dues will not arise.

21.It is further contended that the H&T contract agreement with the petitioner clearly provided for an extension of the contract period by three months upon its expiry, vide Clause IX(22).

22.Accordingly, as the issue of fictitious bill claims arose against the petitioner, such an extension of three



months was cancelled vide letter dated 18.07.2012.

23.It is also submitted in the counter affidavit that the so-called claims made by the petitioner were duly examined by the General Manager (Region), FCI, RO, Patna. After hearing the petitioner, it was found that bills and security deposits with respect to Area Office, Motihari, amounting to Rs. 11,20,357/- were outstanding and were found to be tenable and acceptable, as they pertained to the period from June 2012 to July 2012. Similarly, with respect to Area Office, Muzaffarpur, where the petitioner had also worked, an amount of Rs. 6,66,418/- towards bills and S.D. was found tenable and acceptable. Further, with respect to Area Office, Chapra, an amount of Rs. 3,35,000/- towards S.D. was also found tenable and acceptable. Thus, the claim of the petitioner made in Paragraph 12 of the writ petition is hereby denied



24. Heard the Learned counsel for the petitioner as well as the Learned Senior counsel Shree P.K. Verma for FCI. Perused the entire record.

25. On perusal of the entire record, it is evident that in the first round of litigation, the petitioner had challenged the impugned orders with a contention that no notice was issued prior to passing the impugned order and this Court disposed of CWJC No. 5360 of 2012 and quashed the impugned order dated 14.08.2012 with a contention that no opportunity of hearing was given to the petitioner prior to passing such order. However, direction was given to the corporation respondent to pass order afresh in the matter that too only after hearing of the petitioner. Accordingly, opportunity was given to the petitioner and after hearing the petitioner, the present impugned order was passed by the first respondent.



26. It is specific contention of the Learned counsel for the petitioner that his amount has been withheld and for recovery of certain amounts a money Suit No. 13 of 2015 was filed before Sub-Judge, Motihari and the respondent cannot withheld his amount as they are admitted dues. These are all question of facts which are to be decided by the trial Court. Admittedly, the Writ petition is filed to quash the proceedings of the respondent No. 1 vide Memo No. 4620 dated 23.09.2016, passed by the (General Manager R-FCI), by which the application of the petitioner dated 21.06.2016 was partly allowed. However, the amount has been adjusted against the fictitious claim.

27. It is contention of the Learned counsel for the petitioner that the amounts have been illegally adjusted towards the fictitious claim the FCI. The agreement which is between the petitioner and the FCI was not brought on to the record. Under Article 226



of the Constitution of India, the writ petition is maintainable if the fundamental rights of the petitioner are violated or if the principles of natural justice are not followed. Admittedly, the impugned order was passed by the respondent No. 1 after giving *audi alteram partem* to the petitioner, therefore, the question of violation of principles of natural justice would not arise in this case. It is a question of fact that has to be decided by the trial Court as to whether the amount withheld by the FCI are rightly done by the FCI or not?

28. The counter affidavit of the respondent does not disclose about the admitted dues of the petitioner, so as to pass any order in favour of the petitioner. Therefore, this Court is of the considerable view that the petitioner shall approach the appropriate forum for getting his remedy for the said amounts and that the Writ petition is not maintainable on the question of facts.



29. With the aforesaid observations,
the Writ petition is dismissed as it is devoid
of merits.

(G. Anupama Chakravarthy, J)

Manish/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16.05.2025
Transmission Date	16.05.2025

