



2025:PATHC:107729

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6732 of 2024

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Shyamsundar Sharma S/o Mohan Sharma R/o Village - Shahpur, P.S.
Balrampur, District - Katihar.

... .. Petitioner/s

Versus

1. The Bihar State Food and Civil Supplies Corporation, through the Managing Director, Bihar, Patna.
2. The Managing Director, Bihar State Food and Corporation, Patna.
3. The Deputy General Manager- Transport, Bihar State Food and Civil Supplies Corporation Ltd., Head Quarter, Patna.
4. The Deputy General Manager- Modernization, Bihar State Food and Civil Supplies Corporation Ltd., State Food Corporation, Head Quarter, Patna.
5. The Deputy General Manager- (Public Distribution), Bihar State Food and Civil Supplies Corporation Ltd., State Food Corporation Head Quarter, Patna.
6. The District Manager, State Food Corporation, Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Syed Asgher Nagwi Mr. Ashutosh Kumar Mishra Mr. Wjeeka Jafai
For the Respondent/s	:	Mr. Shailendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

13 04-12-2025

1. The petitioner has filed the present writ application being aggrieved by the order, dated 27.11.2023, passed by the Managing Director, Bihar State Food & Civil Supplies Corporation Ltd. (in short "BSFC") by which the appeal filed by the petitioner has been dismissed.

2. The petitioner was selected as transporter and food grains delivery agent (DSD Agent) by the District Transport Committee for delivery of food grains to the PDS





dealers.

3. The petitioner was directed to deliver the foodgrains on 09.05.2019 vide SIO No. 15021908899 by his vehicle, bearing Registration No. BR11-GB-4360, from TPDS godown to Azamnagar to Kelabari PACS Panchayat. The petitioner delivered the good/foodgrains on 10.05.2019 at 06:00 AM in the morning. The time and date of delivery of foodgrains are not disputed.

4. On 11.05.2019, the respondent no. 4-DGM (Modernization), BSFC, Patna, served a show-cause notice vide letter no. 5022 alleging diversion of route in transportation of foodgrains by vehicle, bearing Registration No. BR11-GB-4360, on 09.05.2019. On 14.05.2019, the petitioner submitted his reply, stating therein, that the truck/vehicle was financed by Chola mandalam Finance Company and due to non-payment of some outstanding amount towards loan, the company obstructed the movement of the petitioner's vehicle, as such, the petitioner took different route through Katihar. However, the foodgrains were unloaded on 10.05.2019 at 06:00 AM. On 11.06.2019, vide letter no. 6082, the respondent no. 4 ordered recovery of 100% price of food grains as penalty from the petitioner.

5. The petitioner approached this Court in CWJC





No. 13850 of 2021 challenging the penalty imposed for transportation of food grains by different route and this Court vide its order, dated 28.08.2023, directed the petitioner to file an appeal/representation before the Managing Director, BSFC, Patna. The petitioner submitted his representation taking all the relevant points, but the Managing Director, BSFC, Patna, passed the impugned order, dated 27.11.2023/30.11.2023, by which the representation/appeal of the petitioner was dismissed and vide letter no. 10393, dated 12.10.2019, the respondent no. 5-DGM (Distribution, BSFC, Patna, while releasing the fund to the petitioner made deduction of Rs. 2,81,098/- from the bills of the petitioner alleging that there was diversion of route.

6. Learned counsel for the petitioner submits that the petitioner was working as distributor-cum-handling agent (Door Step Delivery Agent). Three trucks were loaded for distribution of food grains out of which two trucks, after changing the route due to flood in the area, delivered the food grains. The respondent-authorities, taking note of the fact that the area being flooded, did not impose any penalty upon two trucks/vehicles. However, penalty was imposed on the third vehicle, bearing Registration No. BR11-GB-4360, which diverted its route due to obstruction created by the finance company and delivered the





food grains within reasonable time i.e. the very next day at 06:00 AM in the morning of 10.05.2019.

7. He further submits that the concerned authority i.e. the Managing Director, BSFCC, Patna, failed to appreciate the situation in correct legal perspective and has arbitrarily imposed penalty which is in violation of agreement itself.

8. On the other hand, learned counsel for the Bihar State Food and Civil Supplied Corporation Limited argued that the order of the Managing Director, BSFCC, Patna, has been passed in terms of Clause 4(d) of the agreement. Since, the petitioner failed to deliver the food grains within reasonable time, the presumption was there regarding intention of the petitioner of black-marketing of the food grains by illegal means. He further submits that apart from the fact that route was diverted, the vehicle of the petitioner was seized by the finance company and was kept in the premises of the company, which the petitioner got released and thereafter the food grains was delivered after much delay.

9. I have heard learned counsel for the parties and have gone through the materials available on record including the impugned order.

10. The petitioner has been imposed penalty of





100% of the value of the food grains on the ground that the petitioner did not deliver the food grains within the reasonable time limit and further he diverted the route giving rise to the presumption of black-marketing.

11. From perusal of the relevant clause of the agreement entered into between the BSFC and the petitioner, at Clause 4 (D) it appears that the transporter was required to deliver the goods/foodgrains within reasonable time taking reasonable traveling period. The agreement further says that if the transporter fails to deliver foodgrains within reasonable time then it would be presumed that intention of the transporter was to black-market the food grains by illegal means and accordingly, action would be taken by the BSFC against the transporter and penalty equivalent to five times of the value of the foodgrains/materials would be imposed including termination of agreement and black listing etc.

12. In the present case, the petitioner has taken specific point not disputed by the respondent that due to dispute between the finance company and the petitioner regarding non-payment of some dues towards loans, the vehicle of the petitioner was seized by the finance company which led to diversion of route.





13. Admittedly, the foodgrains was loaded by the vehicle of the petitioner on 09.05.2019 and delivery was made to the concerned PDS dealer/PACS on the very next date i.e. on 10.05.2019 in the morning at about 06:00 AM.

14. The presumption of black-marketing is not absolute and the same is rebuttable presumption. The petitioner has given the explanation regarding delivery of foodgrains on the next date in the morning due to dispute of dues towards loan between the finance company and the petitioner. The explanation given by the petitioner appears to be reasonable. It is not the case of the respondent-BSFC that the petitioner was indulged in black-marketing but on the basis of presumption penalty has been imposed. The challan of delivery of foodgrains along with videography has been produced by the petitioner before the authority.

15. Non-acceptance of the reasons given by the petitioner for delivery of foodgrains on 10.05.2019 i.e. after six hours of loading is unreasonable and arbitrary. Accordingly, the order, dated 27.11.2023/30.11.2023, is set aside to the extent of imposing penalty equivalent to 100% of the value of foodgrains for vehicle, bearing Registration No. BR11-GB-4360. The respondent no. 6 District Manager, State





Food Corporation, Katihar, is directed to refund the sum of Rs. 2,81,098/- admitted deducted amount from the bills of the petitioner immediately preferable within a period of two months from the date of passing of this order.

16. With the aforesaid observation and direction, this writ application is disposed.

(Anil Kumar Sinha, J)

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