
(1999) 08 PAT CK 0037
In the Patna High Court
Case No : C.W.J.C. No. 7531 of 1999

Raju Mishra

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 18-08-1999

Acts Referred:

Citation : (1999) 3 PLJR 235

Hon'ble Judges : S.K. Katriar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.K. Katriar, J.—Heard learned Counsel for the Petitioner and Junior Counsel to Mr. V.N. Sinha, GP IX.

2. The Petitioner entered into an agreement with the Respondent authorities on 28.7.99 for collection of tolls in the township of Basukinath for movement of vehicles during the month of Shravan which, I am informed at the Bar, is from 29.7.99 to 26.8.99. We take judicial notice of the fact that the month of Shravan is a period of great importance for Hindus for worship in the temples of Baidyanath Deoghar and Basukinath. It is manifest on the face of it that the agreement dated 28.7.99 (Annexure-1), is for the aforesaid period of one month only. By order dated 2.8.99 (Annexure-5), and impugned herein, the Respondent authorities have cancelled the agreement on the ground that the rates mentioned in the aforesaid agreement dated 28.7.99 (Annexure-1), is lower than those obtaining in the agreement meant for the township of Baidyanath Deoghar. In such circumstances, learned Counsel for the Petitioner submits that the impugned order dated 2.3.99 (Annexure-5) should be set aside with consequential benefits. He has relied on the following reported judgments:

(i) 1990 (6) SCR 79 Anuj Gupta v. State of Himachal Pradesh

(ii) Vijay Choudhary Vs. The State of Bihar and Others

Learned Counsel for the Respondent authorities is unable to advance any submission in support of the impugned order.

3. Having considered the entire matter, I am of the view that this writ petition has to be allowed. The impugned order on the face of it is unreasonable and verges on arbitrariness. There cannot be unilateral novation of contract after it has been subscribed by the parties and, in fact, the Petitioner has operated the same from 29.7.99 till 2.8.99. Secondly, the same also appears to be in violation of the principles of natural justice. It was held in the case of Anuj Gupta (supra) that when the prospectus for admission to engineering colleges laid down that the admission would be on the basis of the results of Ten plus Two Examination, the same method cannot subsequently be altered. In fact, the Petitioner stands on a better footing in the present case, inasmuch as he has already operated the contract for the aforesaid period, and the agreement is for a limited period of one month only. Therefore, every day counts in this case. The Petitioner is equally supported by the judgment of this Court reported in Vijay Choudhary Vs. The State of Bihar and Others . In that case, the State Govt. had granted lease for a period of three years to the highest bidder after an auction sale. The lessee had worked as per the agreement for a period of six months whereafter the same was cancelled. The Division Bench of this Court set aside the impugned order on two grounds, namely, violation of the principle of natural justice, as well as the doctrine of legitimate expectation.

In such circumstances, the impugned order dated 2.8.99 (Annexure-5) is hereby set aside. The Respondent authorities are directed to allow the Petitioner to work according to the terms of the agreement (Annexure-1), from 19.8.99 till the remaining period of the agreement. The Respondent authorities are hereby directed that the Petitioner shall be allowed to work according to the terms of the agreement from 19.8.99 itself. In view of the fact that the Petitioner has not been able to operate the agreement from 2.8.99 to 18.8.99, he shall be entitled to remission for this period.

4. The writ petition is accordingly allowed.

5. Let copies of this order be handed over to the learned Counsel for the parties today itself.