

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1111 of 2010

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Supriya Health Care Machhali Gali, New Jakkanpur, P.S.Jakkanpur, Distt-Patna,
through its Partner Ashish Kumar,S/O Bisheshwar Jha

.... Petitioner/s

Versus

1. The State of Bihar through its Secretary, Department of Health, New Secretariat,
Patna
2. Darbhanga Medical College & Hospital, Laheriasarai, Darbhanga through its
Superintendent
3. The Superintendent, Darbhanga Medical College & Hospital, Laheriasarai,
Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Verma
Mr. Akhileshwar Singh

For the Respondent/s : Mr. Anjani Kumar, AAG-6
Mrs. Neetu Jha, AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 13-04-2015

Heard the parties.

In compliance of the order dated 23.03.2015, Sri Brijesh Mehrotra, the Principal Secretary, Department of Health, Government of Bihar, Patna is in appearance in person with a supplementary counter-affidavit, which has been filed by the learned Additional Advocate General- 6 during the course of hearing of the case after service of its copy upon the learned counsel appearing on behalf of the petitioner.

In the supplementary counter-affidavit filed today, it has been stated that after holding fresh enquiry with respect to the claims raised on behalf of the petitioner in the present writ petition it was found that Dr. Ram Charitra Mandal, the then Deputy Superintendent, Darbhanga Medical College & Hospital, Laheriasarai, presently posted as Superintendent, Jawahar Lal Nehru Medical College & Hospital, Bhagalpur was not authorised by the Superintendent,



D.M.C.H., Darbhanga to swear and file counter-affidavit in the present writ petition, which was earlier filed by him. It has further been stated that there is no evidence on record to demonstrate that the supply of mattress was actually made by the writ petitioner to the D.M.C.H., Darbhanga. It has also been stated that in above view of the matter, a departmental proceeding has been initiated against aforesaid Dr. Ram Charitra Mandal by a resolution dated 10.04.2015, which has been brought on record as Annexure-B to the aforesaid supplementary counter-affidavit.

In view of the fact that a departmental proceeding has been initiated against Dr. Ram Charitra Mandal, the deponent of the first counter affidavit filed in this case, this Court is satisfied that the order dated 23.02.2015 passed by this Court has been complied with. However, it is directed that the Principal Secretary, Department of Health, Govt. of Bihar, Patna as also other functionaries of the respondent State shall ensure that the aforesaid departmental proceeding is taken to its logical conclusion at an early date. With aforesaid direction, the physical presence of Mr. Mehrotra, the Principal Secretary, Department of Health, Government of Bihar, Patna is henceforth dispensed with.

Now, coming to the merit of the case, this Court finds that the claim raised on behalf of the petitioner regarding payment of contractual dues is under serious dispute in view of the different affidavits filed on behalf of the respondents, hence claim of the writ petitioner cannot be properly gone into in the present proceeding filed under Article 226 of the Constitution of India.

In the result, the writ petition has to fail and the relief sought for cannot be granted in the present proceeding.

However, the writ petitioner shall be at liberty to approach

the appropriate forum/ court for grant of appropriate relief, which shall be considered and decided in accordance with law on the basis of the evidence/ materials produced by the parties. Any such claim raised on behalf of the petitioner before the appropriate forum/court shall not be rejected merely on the ground of rejection of the present writ petition.

Hence, the writ petition stands dismissed with the observations and directions made above.

(Birendra Prasad Verma, J)

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