

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11066 of 2012

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Amresh Kumar Amar S/O - Late Ram Naresh Tiwari, resident of Village -
Kurtha, P.S. + P.O. - Kurtha, District - Arwal

.... Petitioner/s

Versus

1. The State Of Bihar Through The Secretary Cum Commissioner, Department
Of Health, Govt. Of Bihar, Patna
2. The District Magistrate, Arwal
3. The District Magistrate Cum Chairman District Health Society, Arwal
4. The Civil Surgeon Cum Chief Medical Officer, Arwal
5. The Secretary Cum Civil Surgeon , District Health Society, Arwal
6. The In Charge Medical Officer, Primary Health Centre, Kurtha, Arwal
7. The District Health Society, Arwal
8. Brajesh Kumar S/O Not Known R/O Village- Jalwaya, Aaganoor, Dist.- Arwal

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pravin Kumar Verma, Adv.

For the Respondent/s : Mr. M.N. Hoda Khan, SC-1

Mrs. Babita Kumari, AC to SC-1.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 02-08-2016

The present writ petition has been filed for quashing the

Memo No. 344 (Go) dated 06.06.2012 issued by Civil Surgeon cum

Chief Medical Officer, Arwal in compliance of letter no. 432 (Go) dated

05.06.2012 issued by the District Magistrate, Arwal, whereby and

whereunder the petitioner, being a generator operator under contract,

has been directed to deposit the amount received by him from Madhya

Bihar Gramin Bank from the date of installation of generator along

with interest at the rate of 11% to be deposited in the account Ragi

Kalyan Samiti, Kurtha, and operation of the generator has been

terminated with immediate effect; and for connected reliefs.

2. According to the petitioner, an agreement for one year was entered into between the petitioner and the Secretary cum Civil Surgeon, in terms of which the petitioner was required to supply electricity to the Primary Health Centre, Kurtha, through generator. The said agreement was renewed on 13.10.2010 for a period of one year and again on 18.11.2011 for a further period of one year. It is submitted that the impugned order dated 06.06.2012 alleging that the petitioner had been charging money for supply of electricity to the Primary Health Centre, Kurtha as well as to the Madhya Bihar Gramin Bank, Kurtha, both being separate Government organizations, using the same generator, is wholly arbitrary and malafide. As a matter of fact, the Bank had informed the petitioner by its letter dated 06.06.2012 that on the prior day on 05.06.2012, a letter had been obtained from it forcibly by the Block Development Officer, Kurtha to the effect that the petitioner's generator was being used for supply of electricity to the said Bank, and such letter was likely to be misused. The petitioner denies the fact of having supplied electricity to the Primary Health Centre as well as to the aforesaid Bank using the same generator.

3. Learned counsel for the State vehemently opposes the writ petition, stating that apart from the fact that the petitioner had supplied electricity to the Primary Health Centre as well as to the Madhya Bihar Gramin Bank using the same generator which was not

permissible, the petitioner since 08.08.2011 had charged in excess at the rate of Rs. 140 per hour for all the 24 hours of the day for supply of 15 KVA electricity and not the admissible rate of Rs. 54.90 per hour in accordance with the agreement.

4. Having regard to the nature of the contentions of the petitioner, this Court is of the view that the claim of the petitioner involves disputed questions of fact which cannot be adjudicated by this Court in its extraordinary writ jurisdiction. The petitioner has not complained of violation of natural justice in order to lay challenge to the validity of the impugned order. The writ petition accordingly stands dismissed. The petitioner shall however be at liberty to seek redressal of his grievances before any appropriate forum as may be available to him in accordance with law.

(Vikash Jain, J)

Md. Ibrarul/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	