

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2563 of 2013

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Jan Kalyan Samiti, Chiryatand, Khas Mahal, Road No. 3, Patna - 800 0001 through
the Secretary, Dr. Mamta Anand

.... Petitioner/s

Versus

1. The State of Bihar
2. Executive Director Bihar State Health Society, Sheikhpura, Patna
3. District Health Society, Sitamarhi through its Secretary (Civil Surgeon)
4. Civil Surgeon, Sitamarhi cum Secretary, District Health Society, Sitamarhi

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. BINOD KUMAR, Advocate

For the Respondent/s: Mr. DEVENDRA KR SINHA, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 03-03-2016

Heard Mr. Yogendra Mishra, learned counsel for the
petitioner and Mr. Sudhir Kumar, Assisting counsel to AAG-2 for the
State.

The petitioner is aggrieved by the order bearing Memo No.
2377 dated 30.7.2012 of the Civil Surgeon cum Chief Medical
Officer, Sitamarhi whereby the claim of the petitioner for release of
the balance 50 per cent bill amount submitted by the petitioner has
been rejected. The petitioner under an agreement with the District
Health Society was required to provide services at the Primary Health
Centers and Referral Hospital of the State Government. A copy of the
agreement is present at Annexure-1 of the writ petition and the terms
of agreement are mentioned therein. The agreement so entered in



between the parties insofar as it related to 11 of the Primary Health Centers / Referral Hospital, was cancelled on 12.1.2008, a copy of which is placed at Annexure-2. The petitioner continued to provide services at the remaining four Primary Health Centers and which also was cancelled vide order dated 06.2.2008 of the Executive Committee bearing Memo No. 88 impugned at Annexure-4. The petitioner submitted his bills for the services rendered, copy of which is placed at Annexure-5 and vide a decision taken on 29.3.2010 present at Annexure-6, 50 per cent of the bills so submitted was withheld under a decision of the Executive Committee, District Health Society presided by the Civil Surgeon as its Chairman. The copy of such decision is present at Annexure-6 and which was questioned by the petitioner in CWJC No. 4333 of 2012 *inter alia* on grounds that the decision to withhold 50 per cent of the bills is not accompanied with any reasons. A coordinate Bench of this Court considering the grievance raised disposed of the said writ petition vide order passed on 25.6.2012 in the following terms:

“In the aforesaid circumstances, this writ application is disposed of with a direction to the Respondent no.4 to see to it that the Executive Committee of the District Health Society takes a final decision on the representation of the petitioner positively within two months and admissible amount is paid. If it is found that the petitioner is not entitled for any part of the

remaining amount, appropriate decision shall be taken and shall be communicated to the petitioner within the same period of two months from the date of receipt/production of a copy of this order.”

The petitioner represented before the Civil Surgeon cum Chief Executive Officer who happens to be the Chairman of the District Health Society and which has been rejected by the Civil Surgeon vide the order impugned bearing Memo No. 2377 dated 30.7.2012. Even when this Court while disposing of the grievance of the writ petitioner in the earlier round of proceedings present at Annexure-11 had specifically directed the Civil Surgeon to consider the grievance and if found admissible, release the payment of balance 50 per cent of the bill and in case the claim is not found sustainable, to dispose of the same by a reasoned order, yet the mechanical rejection which merely upholds the earlier rejection without assigning any reasons there for. Apart from the fact that the rejection is whimsical and arbitrary, it also borders on contempt. However, since the rejection is not accompanied with valid reasons and despite opportunity being given to the Civil Surgeon-cum-Chief Medical Officer, Sitamarhi by this Court, to consider the claim raised by the petitioner and dispose of the same by a reasoned order if not found sustainable, the impugned order passed by him merely upholding his

earlier rejection confirms that there is no valid reason in the possession of the respondent to reject the prayer of the petitioner and the withholding of 50 % bills submitted by the petitioner is a whimsical act.

Mr. Sudhir Kumar, learned counsel appearing on behalf of the State has though laboured hard to justify the impugned order but the attempt is defenceless. Even the statement made in the counter affidavit does not justify the decision so taken nor assigns reason for withholding the bills.

In the circumstances discussed, this Court while quashing the order bearing Memo No.2377 dated 30.7.2012 passed by the Civil Surgeon cum Chief Medical Officer, Sitamarhi rejecting the claim of the petitioner would direct him to forthwith release the balance claim of the petitioner within six weeks of the receipt / production of a copy of this order.

The writ petition is allowed.

(Jyoti Saran, J)

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