

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8481 of 2014

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M/s Ragho Sewa Sansthan, a registered NGO, through its Secretary, Nirmala Kumari wife of Sri Rameshwar Prasad, resident of VIP Road @ Cinema Road, Chandni Chow, P.S. Town and District- Sheikhpura

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Health-cum-Executive Director, Patna
2. The Secretary, Health-cum-Executive Director, State Health Society, Patna.
3. The Development cum Chairman, State Health Society, Patna, Bihar
4. The Civil Surgeon-cum-Member Secretary, District Health Committee, Sheikhpura
5. The District Programme Manager, Sheikhpura.
6. The Zila Samudaik Utprerak, Sheikhpura.
7. State Health Society, Patna, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Utsav Kumar, Adv.
For the State Health Society : Mr. K.K. Sinha, Adv.
For the State : Mr. Anil Kumar, AC to SC-10.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 04-04-2016

Heard learned counsel for the petitioner and the respondents.

2. The present writ petition has been filed for quashing the order bearing memo no. 1680 dated 25.02.2014 passed by Sri Sajay Kumar Singh, Secretary-cum-Executive Director, State Health Society, Bihar by which the petitioner NGO has been blacklisted and debarred from participating in any Tender offer of the Health Department, Health Committee at State and District level of Bihar Government and its various institutions and hospitals, for restraining the respondent

authorities from encashing the Bank Guarantee of the petitioner NGO and for all other reliefs to which the petitioner is found entitled to in course of hearing of this application.

3. Learned counsel for the petitioner submits that pursuant to a tripartite agreement dated 31.01.2012 for one year, the petitioner NGO was awarded the work of making arrangement of food, lodging and imparting training to the selected 'Ashas' in Sheikhpura District in Asha modules 5, 6 and 7. The agreement was extended lastly up to 31.03.2014. It is submitted that the allegations against the petitioner are misconceived as the work was being performed properly and thus the agreement ought not to have been cancelled by the respondents. Similarly, the impugned order of blacklisting and debarment ought not to have passed against the petitioner.

4. Learned counsel for the respondent State Health Society, on the other hand, relies on its counter affidavit and submits that no fault can be found with the action of the respondents. A show cause notice was duly issued to the petitioner which has been replied and after considering the show cause filed by the petitioner, the impugned order has been passed. The repeated failure on the part of the petitioner to carry out the work despite extension of time and written assurance of the petitioner to conduct the work properly as reported in Annexure-A to the counter affidavit, the respondents

Society was left with little option but to take the impugned action against the petitioner after termination of the agreement.

5. Having heard the parties and on consideration of the materials on record, this Court does not find any merit in the writ petition. The petitioner has failed to point out any illegality in the decision making process. It is well settled that Courts will not ordinarily interfere in contractual matters with respect to the decision of the authorities to blacklist a person for failure to perform the work in accordance with the agreement. The decision of blacklist the petitioner is itself a discretionary power of the authorities and this Court is not inclined to interfere in the exercise of such power by the respondents. The petitioner has not been able to satisfy this Court of any procedural infirmity as might warrant interference. The respondents have taken a specific stand in the counter affidavit that the petitioner repeatedly failed to perform the work satisfactorily. Despite sufficient opportunity, no rejoinder has been filed by the petitioner.

6. The writ petition accordingly stands dismissed.

(Vikash Jain, J)

Md. Ibrarul/-

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