

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7842 of 2015

Dr. Jain Video On Wheels Limited, Jain Studios Campus, Scindia Villa, Sarojini Nagar, Ring Road, New Delhi. Represented through its representative Mr. Dharmendra Kumar Singh, Aged about 37 years, Bihar having its local office at 5th Floor times of India building, Fraser Road, Patna-800001.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar Patna.
2. The Development Commissioner, Bihar Patna.
3. The Principal Secretary, Department of Health, Bihar, Patna.
4. State Health Society through its Secretary, Parivar Kalyan Bhavan, Sheikhpura, Patna 800014.
5. The Secretary, Health cum Executive Director, Bihar Health Society, Parivar Kalyan Bhavan, Sheikhpura, Patna 800014.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Y.V.Giri, Sr. Advocate.
Mr. Aditya Prakash Sahay, Advocate.
Mr. Prabhat Kumar Singh, Advocate.
Mr. Manoj Kumar Sinha, Advocate.

For the Respondent/s : Mr. R.N.Dubey, AAG-12

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 15-02-2016

Heard learned counsel for the parties.

The case has been listed and heard out of turn on the basis of motion slip filed on behalf of the petitioner stating that he is ready to go for arbitration.

Learned counsel for the Respondents does not oppose.

In view of the aforesaid, the writ petition stands disposed off as withdrawn with liberty to the petitioner to move before the Bihar Public Works Contract Disputes Arbitration Tribunal

(hereinafter referred to as the 'Tribunal') with regard to the matter involved in the present writ petition.

The Court would only observe that if such a petition is filed before the Tribunal within two weeks from today along with a copy of this order, the same shall be decided expeditiously within a period of six months from the date of filing of the case.

The petitioner would further be at liberty to file an application before the Tribunal for grant of any interim protection so as to safeguard his future rights and also to ensure that he is not prejudiced due to the matter not being finally decided by the Tribunal.

In view of the fact that previously also, the petitioner had moved the Court and there was an interim observation not to create third party right during the interregnum period, the Court deems it appropriate that the Tribunal shall consider the petition, if so filed, for interim protection to the petitioner within two weeks of the petitioner approaching the Tribunal. For the said period of two weeks, no third party right shall be created by the respondent no. 4 with regard to the matter in question.

The tender process, if any, may proceed subject to the aforesaid observations.

Learned counsel for the respondent no. 4 was not in a position to give any justifiable reason, why the petitioner may not be

permitted to move before the Tribunal. Learned counsel submits that once the petitioner earlier had been directed to approach before the Development Commissioner, who is the Chairman of the State Health Society, he should not be permitted to again go for arbitration.

The Court does not find substance in such contention because the Development Commissioner is the Ex-officio Chairman of the State Health Society and thus, in a dispute between the State Health Society and the petitioner, he has a right to move before the Tribunal, which is set up under an Act of the Legislature, i.e., the Bihar Public Works Contracts Disputes Arbitration Tribunal Act, 2008.

(Ahsanuddin Amanullah, J)

Sujit/-

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