

IN THE HIGH COURT OF JUDICATURE AT PATNA

Request Case No.20 of 2016

with

Request Case No. 21 of 2016

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Jagran Prakashan Limited, a company registered under the companies Act, 1956 having its registered office at 2 Sarvodaya Nagar, Kanpur, Uttar Pradesh and office at 5th Floor, Rashmi Complex, Kidwaipuri, Patna, Bihar through Mr. Sanjay Kumar Singh, son of late Sheo Nath Singh, presently working as Regional Manager, Bihar-Jharkhand Jagran Solutions, a unit of Jagran Prakashan Ltd.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Deptt. Government of Bihar, Patna
2. The State Health Society Bihar through its Executive Director, Parivar Kalyan Bhawan, Shiekhpora, Patna, Bihar
3. The Executive Director, State Health Society, Parivar Kalyan Bhawan, Shiekhpora, Patna, Bihar
4. The Civil Surgeon-cum-Member Secretary, District Health Society, Shiekhpora
5. The Civil Surgeon-cum-Member Secretary, District Health Society, Begusarai
6. The Civil Surgeon-cum-Member Secretary, District Health Society, Khagaria
7. The Civil Surgeon-cum-Member Secretary, District Health Society, Kishanganj
8. The Civil Surgeon-cum-Member Secretary, District Health Society, Munger
9. The Civil Surgeon-cum-Member Secretary, District Health Society, Purnea
10. The Civil Surgeon-cum-Member Secretary, District Health Society, Lakhisarai
11. The Civil Surgeon-cum-Member Secretary, District Health Society, Katihar
12. The Civil Surgeon-cum-Member Secretary, District Health Society, Banka
13. The Civil Surgeon-cum-Member Secretary, District Health Society, Jamui
14. The Civil Surgeon-cum-Member Secretary, District Health Society, Bhagalpur
15. The Civil Surgeon-cum-Member Secretary, District Health Society, Araria

.... Respondent/s

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Appearance :

(In REQ. CASE No.20 and 21 of 2016)

For the Petitioner/s : Mr. Rajiv Kumar Singh, Advocate

For the Respondent/s : Mr. Rajeev Shekhar, AC to GA-13

For Respondent No.3 : Mr. K.K. Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 07-04-2017

This is an application filed under section 11(6) of the Arbitration and Conciliation Act, 1996.



2. Petitioner entered into an agreement for the purpose of establishment and operationalizing of Mobile Medical Units in various districts and divisions in the State of Bihar. The petitioner, in pursuance of an agreement, is said to have executed the work, but as payments after completion of the work were not made, claim was made and when the claim was not settled, invoking the arbitration agreement contained in Clause 14 of the agreement dated 18th August, 2010, the application in question was filed. Clause 14 reads as under:

“14. Legal

The disputes, if any, between the parties shall be settled amicably between the parties. And if the parties failed to settle the dispute amicably, the dispute shall be referred to the Principal Secretary, Health, Govt. of Bihar who will act as an Arbitrator and will settle the dispute under the provisions of the Arbitration & Conciliation Act, 1996. Decision of the Arbitrator shall be final and binding on both the parties, subject to Patna jurisdictions: if so advised for invoking jurisdiction of Court of Law.”

3. On notice being issued, respondents have filed a detailed counter affidavit. The respondent State Health Society, Bihar, which is the apex body and which has entered into the agreement, indicates that with regard to the payments to be made to the petitioner, details were being collected from various districts and



divisional units and after calculation of the amount, the payments would be released to the petitioner. The affidavit filed by the society in this regard has been filed on 30th of November, 2016 and the averments, as indicated hereinabove, are made in para-6 of the counter affidavit. Thereafter, in para 8, the said society goes to say that, in case, after payments are released, any dispute still subsists, the matter can be referred under Clause 14. In this case and connected case, bearing Request Case No.21 of 2016, some of the respondents, who are the district units, have filed a counter affidavit indicating that they have made the payment and the dues are not recoverable from the district concerned.

4. Be that as it may, the fact remains that the petitioner executed the work in pursuance of an agreement with the Regional Director, Health Services, and the society in question for entire State of Bihar and now, admittedly, from the material available on record, it is clear that, with respect to various districts, the payments to the petitioner have not been made and, therefore, there is a dispute between the parties as contemplated under Clause 14 of the agreement, as reproduced hereinabove. Merely because some of the districts have made the payment, the application cannot be rejected when *prima facie* overwhelming materials are on record to show that with regard to some districts and divisional units payments are yet to



be made.

5. That being so, this Court is of the considered view that now the dispute may be referred for arbitration and it would be for the Arbitral Tribunal to go into various aspects of the matter, hear the parties concerned, examine the evidence and materials available on record and resolve the dispute regarding agreement in question entered into between the parties.

6. Accordingly, Justice Shri R.K. Datta, a retired Judge of this Court, is appointed as arbitrator for adjudication of the dispute.

7. With the aforesaid, the application is allowed.

(Rajendra Menon, CJ)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	12.4.2017
Transmission Date	N/A

