

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9310 of 2016

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M/s Tanu International, a proprietorship Firm having its office at 202, Hari Om Apartment, B-Block, Exhibition Road, P.S. Gandhi Maidan, District - Patna through its Partner Amit Kumar Dhandhanian son of Late Sajjan Kumar Dhandhanian Resident of 201, Hari Om Apartment, B-Block, Exhibition Road, P.S. Gandhi Maidan, District - Patna.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, having its office at Vikas Bhawan, Bailey Road, Patna.
2. The Superintendent, Patna Medical College and Hospital having its office at PMCH, Ashok Raj Path, Patna.
3. The Principal, Patna Medical College having its office at PMCH, Ashok Raj Path, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Nikhil Kumar Agrawal

Ms. Aditi Hansaria, Advocates.

For the Respondents : Mr. Rakesh Kumar Shrivastava, AC to GP-15

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 23-11-2017

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for a direction to the respondents not to withhold the payment of the petitioner for the supplies made by the petitioner to the tune of Rs. 1,76,05,257/- in view of various purchase orders; and for connected reliefs.

3. Learned counsel for the petitioner submits that pursuant to successful bid in tender, the petitioner got purchase orders and duly supplied the films, cassettes and image plates of various



shapes and sizes for use in Digital X-ray Machine and other consumable items. It is submitted that having accepted the supplies which have been found in order, the respondents are not justified in withholding the payment to the petitioner.

4. Learned counsel for the respondents invites attention to the counter affidavit and submits that the payment to the petitioner is being withheld in the background of default committed by the petitioner in respect of an earlier contract executed in the years 2008-09 and 2009-10 whereunder the petitioner was required to carry out repairs in respect of machines supplied by it but failed to do so, leading to considerable loss to the respondent-PMCH.

5. Having heard the parties and on a consideration of the materials on record, this Court is of the view that if the petitioner has supplied the materials under the relevant purchase orders to the satisfaction of the respondent-PMCH, payment of the bills cannot be withheld for any default alleged against the petitioner in respect of earlier unconnected contract. Nothing has been brought on record to show that the respondent-PMCH had reserved the right to withhold payment due to the petitioner under different work orders for default in carrying out the repairs of the machines under earlier agreements.

6. In the above view of the matter, this writ petition is disposed of with consent of the petitioner, granting him liberty to approach the Superintendent, Patna Medical College and Hospital,



Patna (Respondent No. 2) with a fresh representation for redressal of its grievances. If any such representation is filed within a period of two weeks from today, the same shall be considered and disposed of, ensuring payment to the extent found due to the petitioner under the relevant purchase orders, within a period of six weeks from the date of receiving the petitioner’s representation. Any delay in payment of the admitted amount beyond the stipulated period as stated above, shall entitle the petitioner to receive payment together with simple interest at the rate of 6% per annum on the admitted dues calculated from the date when the amount became due till the date of its actual payment. In case the petitioner’s claim is found inadmissible, whether in whole or in part, the petitioner’s representation shall be disposed of by a speaking order in that regard.

5. It is made clear that this Court is not expressing any opinion on the merits of the claim of the petitioner.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
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Transmission Date	N.A.

