

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9409 of 2016

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Birendra Prasad Gupta, Son of Late Sita Ram Sao, Proprietor M/S Vicky Store,
Resident of Village: Tola Shiv Mandir Khatri Tola, Jehanabad, Police Station:
Jehanabad, District : Jehanabad.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Health Department, Bihar, Patna.
3. The District Magistrate cum Chairman, District Health Society, Jehanabad.
4. The Civil Surgeon-cum-Chief Medical Officer-cum-Member Secretary, District Health Society, Jehanabad.
5. The District Programme Manager, District Health Society, Jehanabad.
6. The Deputy Superintendent, Amar Shahid Jagdeo Prasad Hospital, Jehanabad.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Prafull Chandra Jha, Adv.
For the Respondent/s : Mr. Chittranjan Sinha, P.A.A.G-2
Mr. Shailendra Kumar, A.C. to P.A.A.G-2

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 07-08-2017

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

2. In this case, the petitioner is challenging the order dated 13.04.2016 passed in Case No.76/DM/2015, whereby the claim of the petitioner to continue with the contract having been rejected as well as the claim of enhancement of rate has been rejected holding that the contract is for one year it could be extended upto two years and further the petitioner has violated the terms mentioned in the agreement.



3. Learned counsel for the petitioner submits that the petitioner has been serving the patient of Jehanabad hospital for last 25 years, has applied for the contract and was allotted the work order looking to his performance. The petitioner was allotted work from time to time.

4. It is not in dispute that the period of contract was for one year is over, the period which could have been extended upto two years has also expired. So the petitioner cannot be allowed to serve the patient. The District Health Society through the District Magistrate as well as the Civil Surgeon has issued the advertisement, which is annexed as Annexure-8 to the writ application, by which application has been invited from the competent persons to participate in the tender.

5. In such view of the matter, the petitioner, if so advised, may also drop his sealed cover tender, there will not be any obstruction in consideration of his case, but will be dependant on its merit, whoever will be the best offerer will be selected. The question of entitlement of new rate as having been pointed out by the learned counsel for the petitioner, the resolution has been issue by the State Authorities, whereby and whereunder it has been prescribed a new rate for different items has been made applicable even to the work



order allotted earlier is continuing and the rate has been made applicable even in Sadar Hospital Jehanabad.

6. As the petitioner is claiming the enhanced rate, let the petitioner file proper representation before the District Magistrate, Jehanabad, who will be obliged to examine the merit of the claim about nature of service provided by the petitioner. If the District Magistrate, Jehanabad recorded the finding in his favour, it goes without saying that he will take decision in accordance with law for making payment, but if the District Magistrate, Jehanabad arrives to a finding against him, in such circumstance, he will be obliged to hear the petitioner and pass a reasoned order. The entire exercise should be completed by the District Magistrate, Jehanabad within a period of three months from the date of filing of representation by the petitioner.

7. With the aforesaid observations and directions, this writ application is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	16.08.2017
Transmission Date	N/A.

