

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Jurisdiction Case No.3970 of 2016**

**In**  
**Civil Writ Jurisdiction Case No. 7549 of 2016**

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Schiller Healthcare India Pvt. Ltd., presently having its registered Office on 2nd Floor, Advance House, Makwana Road, Marol Naka Metro Station, Andheri (E), Mumbai 400059 and its Regional Office at 4-A/23, Jagdamba Path, North S.K. Puri, Boring Road, Patna- 800013 through its Regional Sales Manager, Sri N.K. Jha.

.... .... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Sri Anjani Kumar Singh, son of not known to the petitioner company, Government of Bihar, Old Secretariat, Patna- 800015.
2. Sri R.K. Mahajan, son of not known to the petitioner company, the Principal Secretary, Department of Health, Medical Education-cum-Family Welfare Department, Government of Bihar, New Secretariat, Patna- 800015.
3. Bihar Medical Services & Infrastructure Corporation Ltd, (A Govt. of Bihar Undertaking) through its Managing Director, Sri Pradeep Kumar Jha, son of not known to the petitioner company, 5th Floor, Biscomaun Bhawan, Gandhi Maidan, Patna 800001.
4. Sri Pradeep Kumar Jha, son of not known to the petitioner company, The Managing Director, Bihar Medical Services & Infrastructure Corporation Ltd, (A Govt. of Bihar Undertaking), 5th Floor, Biscomaun Bhawan, Gandhi Maidan, Patna 800001.

.... .... Opp.Parties

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**Appearance :**

For the Petitioner/s : Mr. Amit Shrivastava, Adv.  
Mr. Girish Pandey, Adv.

For the Respondent/s : Mr. Prabhat Kumar Singh, Adv.

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**  
**ORAL ORDER**

3      02-08-2017      Heard Mr. Amit Shrivastava, learned counsel for the petitioner and Mr. Prabhat Kumar Singh, learned counsel for the opposite parties.

This contempt application has been filed for violation of the order of this Court passed in C.W.J.C.No. 7549/2016 when this Court taking note of the grievance so raised by the petitioner, disposed of the writ petition with the direction to the Managing



Director of the Corporation to consider the grievance of the petitioner regarding non-payment of dues of the petitioner amounting to Rs.7,67,40,562/- which had remained pending since 2013 and dispose of the same after grant of opportunity of hearing to the petitioner by a speaking order to be passed within a period of three months from the date of receipt/ production of the order.

On failure of the Managing Director to comply with the direction that this contempt application was filed on 22.11.2016 and was moved for early hearing by a motion made on 25.11.2016 when this Court directed for listing of the matter on 30.11.2016 and was accordingly placed on Board.

It is around the time that this contempt application was filed, that process was started by the Corporation for disposal of the claim of the petitioner and following a notice so issued by them that the representative of the petitioner appeared before the Principal Secretary (Health) cum Managing Director on 2.9.2016. The discussion however, remained inconclusive and no further date was granted.

According to the petitioner, a reminder was given to the Managing Director for fixing a date of hearing in the matter vide letter dated 25.10.2016 at Annexure P/5 to the contempt application but since nothing was forthcoming that the present contempt application was filed on 22.11.2016. It is after filing of



the contempt application that a letter was issued from the office of the Managing Director on 23.11.2016 to appear on 29.11.2016 but since the contempt application had already been filed, hence as per legal advice received, the petitioner sought time in the matter for seeking leave of the Court since the contempt application was pending.

The grievance of the petitioner is that despite this information been given to the Managing Director and since the petitioner was yet to obtain leave of the Court that he refused to participate in the proceeding which was held ex-parte to result in the order dated 28.12.2016, a copy of which is placed at Annexure 'D'.

The short submission made by Mr. Shrivastava is that this order is not in tune with the stipulation present in the order of this Court passed on the writ petition because it required a participation of the petitioner with due opportunity of presenting the facts but which has been denied despite time being asked from the respondents on the ground that the contempt application was pending before this Court.

Mr. Prabhat Kumar Singh, learned counsel appearing for the Corporation including the Managing Director, submits that since the petitioner had refused to participate and the contempt application was pending, hence the matter has been disposed of in



compliance of the direction of this Court.

I have heard learned counsel for the parties and have perused the records.

While there are reasons assigned by the Corporation in support of the order of disposal dated 28.12.2016 present at Annexure 'D', the petitioner has his own reasons for not participating in the proceedings. In the nature of the dispute engaging, the disposal certainly is not in tune with the order passed by this Court requiring the participation of the petitioner with due opportunity to him to support his claim, inasmuch as the order is ex-parte. The hearing having been initiated by the Principal Secretary (Health) cum Managing Director of the Corporation on 2.9.2016, according to the petitioner since despite his reminder on 25.10.2016, no date was being communicated for hearing, that he was forced to move this Court on 22.11.2016 and it is only where after that the proceeding was again initiated by the Managing Director of the Corporation but since the contempt application had already been filed that as per legal advice tendered, the petitioner had not participated resulting in the ex-parte order.

Having heard learned counsel for the parties and without entering into the intricacies as to whether or not any contempt is made out I am satisfied that the disposal is not in tune with the



direction of this Court. The Managing Director definitely has defaulted on the time frame and since in the meanwhile, the contempt application was filed, the petitioner had his reasons to avoid participation awaiting the outcome. On the other hand the Managing Director in order to save himself of contempt has hurriedly disposed of the matter albeit ex-parte, which I have already observed, is not in tune with the directions of the writ Court.

In the circumstances discussed, I deem it proper to dispose of this contempt application with a direction to the Managing Director of the Corporation to consider the matter afresh allowing opportunity to the petitioner to present materials in support of his claim for its disposal in accordance with the stipulations present in the order of the Writ Court.

Let the petitioner appear before the Managing Director of the Corporation on 16<sup>th</sup> August, 2017 when he shall proceed to dispose of the matter in accordance with the directions of the Writ Court.

The contempt application is disposed of accordingly.

**(Jyoti Saran, J)**

Surendra/-

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