

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.887 of 2018

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Geeta Mahila Uthan Samiti through its Secretary Mani Kumar Pandey having its office At + P.O. Rajendra Nagar, Bhojpur, Ara.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Health Department, Patna.
2. The State Health Society, Bihar, through its Secretary-cum-Executive Director, Parivar Kalyan Bhawan, Patna.
3. The Commissioner, Saran Division, Chapra
4. The District Health Society through its Secretary Civil Surgeon, Saran.
5. The District Magistrate-cum-Chairman, District Health Society, Saran
6. The Civil Surgeon-cum-Secretary, District-Health Society, Saran
7. Sri Dhiraj Kumar, Son of Lalan Prasad Shrivastava, the District Programme Manager, District Health Society, Saran
8. The District Programme Manager, District Health Society, Saran.
9. The District Account Officer, Saran.
10. The General Manager, Industry, Saran.

.... Respondents

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Appearance :

For the Petitioner : Mr. Gyan Prakash, Advocate

For the Respondents : Mr. Manoj Kr. Yadav, AC to GA10

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 29-03-2018

Heard learned counsel for the petitioner as well as learned counsel for the respondents.

2. The present writ petition has been filed for quashing the order contained in Memo No. 1849 dated 13.12.2017 issued under the joint signature of the District Magistrate-cum-Chairman and the Civil Surgeon-cum-Secretary, District Health Society, Saran (Annexure-7) by which work order dated 08.11.2016 for the work of outsourcing in different Hospitals of Saran District allotted to the petitioner through its selection in technical and financial bid in pursuance of a tender advertised, has been cancelled with immediate effect.

I.A. No. 2244 of 2018

3. This interlocutory application has been filed seeking to add the prayer in the relief portion of the writ petition by adding the following prayer –



“(vi) For issuance of a writ in the nature of certiorari for quashing Memo No. 450 dated 28-2-2018 issued by the joint signature of the District Magistrate-cum-Chairman and Civil Surgeon-cum-Secretary of the District Health Society, Saran, Chapra, show causing the petitioner as to why Tender of 2016 be not cancelled referring to order dated 16-5-2017 passed by this Hon’ble Court in C.W.J.C. No. 5171/2017 (Annexure-4) and consequent order dated 01.09.2017 passed by the Divisional Commissioner, Saran Division (Annexure-5) where petitioner was neither even party nor noticed nor any allegation against so far his selection or allotment of work order dated 08-11-2016 for three years is concerned.”

4. Having regard to the nature of the prayer, the interlocutory application is allowed and the same shall be treated as forming part of the writ petition.

CWJC No. 887 of 2018

5. It is submitted by learned counsel for the petitioner that after the work order of the petitioner was cancelled by order dated 13.12.2017, a show cause notice has subsequently been issued on 28.02.2018 by which the tender is sought to be cancelled. It is submitted that the order of cancellation has been passed without granting any opportunity of hearing.

6. Learned counsel for the respondents appears and has been heard.

7. Having regard to the nature of the grievance of the petitioner as well as taking into account the counter affidavit in which the stand of the petitioner with regard to violation of the principles of natural justice has not been denied, the impugned order dated 13.12.2017 is accordingly quashed and the matter remanded to the respondent no. 5 and 6 to take a fresh decision in the matter after



issuing appropriate show cause notice to the petitioner in accordance with law.

8. As regards the show cause notice dated 28.02.2018 (Annexure-13) issued by the respondent nos. 5 and 6 for cancellation of the tender, admittedly the petitioner has already responded to the same, having filed his detailed reply dated 17.03.2018 (Annexure-14). Let this issue therefore also be decided by the respondent nos. 5 and 6 in accordance with law.

9. The writ petition stands disposed of granting liberty to the petitioner to approach this Court once again in case adverse orders are passed upon disposal of the matters by the respondent nos. 5 and 6.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	07.04.2018
Transmission Date	N.A.

