

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4775 of 2015

Dr. Ashok Kumar Sinha, Son of Late Rameshwar Prasad Sinha, Resident of Shiv Colony, Patel Nagar,, P.S. - Hilsa, District- Nalanda, Retired Civil Surgeon cum Chief Medical Officer, Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Department of Health , Government of Bihar, Patna.
2. Principal Secretary, Department of Health , Government of Bihar , Patna.
3. Under Secretary, Department of Health, Government. of Bihar, Patna.
4. Deputy-Director, Department of Health, Government of Bihar , Patna,.
5. District magistrate/collector, Sheikhpura,
6. District Magistrate /Collector, Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar Singh, Advocate Mr. Vasant Vikas, Advocate
For the State	:	Mr. Mrigendra Kumar, AC to GA 4

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 20-08-2018

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the respondent-State.

This writ petition has been filed challenging the punishment inflicted upon the petitioner by the disciplinary authority under order dated 17.07.2013 to the extent it directs withholding of 50% of pension and 10% of gratuity of the petitioner. The same has been affirmed by the appellate authority under order dated 29.01.2015.

The petitioner has been proceeded against on allegation that pursuant to an emergent tender notice contract was given to



one Hi-tech Health Care for supply of certain drugs. On failure to complete the contract the petitioner being the Civil Surgeon has made purchase of some medicines from the tenderer who was the second lowest bidder in the tender conducted under the earlier tender notice. The allegation is that if the supply were incomplete the petitioner was required to seek guidelines from the District Magistrate and only after a decision of the Tender Committee purchase could have been made from anyone else.

The fact that the purchase has been made from the second lowest bidder is admitted by the petitioner. The petitioner being the Civil Surgeon has sought to sustain the action by saying that he had discussed the matter with the District Magistrate and a decision has been taken since if the medicine “Cromic Catgut No.1” were not purchased promptly then the patients who were undergoing surgery were likely to suffer. His submission is that the purchase has been made only in public interest.

Be that as it may, the petitioner has not been able to place on record any provision in support of his authority to make purchase without reference to the Purchase Committee or without permission from the District Magistrate of the district concerned.

In the aforesaid circumstances, this Court does not find any reason to interfere with the punishment inflicted upon the



petitioner as the purchase has been made from one Sun International, Patna, admittedly without seeking any order or inviting any tender for purchasing medicines from the other person before making any purchase.

One aspect of the matter is worthy of consideration that the punishment which has been awarded to the petitioner is certainly disproportionate to the gravity of the allegation. The alleged loss caused on account of the purchase, which the petitioner submits was in public interest, has been quantified at Rs.2,03,472/- and recovery of the amount is sought to be made by deducting 50% of the pension and 10% of gratuity of the petitioner for all times to come. Such a punishment on the face of it defies logic, is shockingly disproportionate and is too harsh. This, aspect, in opinion of the Court deserves reconsideration.

In view of the aforesaid finding, this Court would consider it appropriate that the appellate authority may reconsider the quantum of punishment having regard to the finding noted hereinabove. The petitioner may approach the appellate authority by making a representation for reconsideration of the quantum of punishment within four weeks from today. In the event such a representation is filed the appellate authority would reconsider the quantum of punishment and pass a reasoned and speaking order



within a period of eights weeks thereafter. While reconsidering the quantum of punishment, the order dated 29.01.2015 will not stand in the way of the appellate authority.

The writ petition stands disposed of accordingly.

(Madhuresh Prasad, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.08.2018
Transmission Date	N.A.

