

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22150 of 2013

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Sukhdeo Rai Samariti Samajik Seva Sansthan through its Secretary
Namely Anil S/O Udit Rai Resident Of Village- Lodipur, P.O. & P.S.- Garaul,
District- Vaishali

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Health,
Govt. Of Bihar, Patna
2. The Director, Department Of Health, Govt. of Bihar, Patna
3. The District Magistrate Cum President, District Health Society, Vaishali at
Hajipur
4. The Civil Surgeon Cum Member Secretary, District Health Society, Vaishali
at Hajipur

... .. Respondents

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Appearance :

For the Petitioner : Mr. Sabal Kumar Jha, Advocate.

For the Respondents : None

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 05-12-2018

The present writ petition has been filed for a direction to
the respondent to return the earnest money of Rs. 35,000/- along
with interest to the petitioner.

2. Learned counsel for the petitioner submits that
pursuant to an advertisement for short term tender, the petitioner
applied after depositing the requisite amounts for carrying out
work in Referral Hospital, Khajpura Chand Chapra, Vaishali but he
was selected instead for Primary Health Centre, Desri, Vaishali.
However as the petitioner was not desirous of carrying out work for
which he was selected instead of the work applied for, he filed his
representation for refund of the earnest money of Rs. 35,000/-
deposited by him by letter dated 18.12.2010 (Annexure-4/1) which
remains pending.



3. None appears on behalf of the respondents when the matter is called. A counter affidavit is on record, in paragraph-8 whereof it is stated that the petitioner had given his written consent on 28.12.2009 to DHS, Vaishali and was accordingly allotted the work for Primary Health Centre, Desri, Vaishali by letter dated 22.02.2010. He was given the work order but did not start work and finally gave his refusal on 07.04.2010.

4. Learned counsel for the petitioner submits that the so-called written consent referred to by the respondents in the counter affidavit is in fact the letter of refusal and the petitioner has not given any written consent.

5. Having heard learned counsel for the petitioner and on consideration of the materials on record, this Court finds merit in the writ petition. It is not in dispute that the petitioner had applied for work in the Referral Hospital, Khajpura Chand Chapra, Vaishali but he was not awarded the same, rather he was offered the work at Primary Health Centre, Desri, Vaishali which he did not accept. The respondents do not appear to have enclosed any letter of written consent of the petitioner for working at Primary Health Centre, Desri, Vaishali and a bare perusal of the document relied upon by the respondents (Annexure-B) shows that it is the letter of refusal of the petitioner submitted on 07.04.2012 with request was made for refund of the earnest money. The respondents have also not



stated that the petitioner's representation dated 18.12.2010 (Annexure-4/1) has yet been disposed of.

6. In the above circumstances, therefore, the writ petition is disposed of with a direction to the District Magistrate cum President, District Health Society, Vaishali at Hajipur (respondent no. 3) to consider and dispose of the petitioner's representation dated 18.12.2010 (Annexure-4/1), if still pending, after grant of opportunity of hearing to the petitioner in accordance with law expeditiously and in any event preferably within a period of eight weeks from the date of receipt/production of a copy of this judgment. If upon disposal of the representation, the petitioner is found eligible for refund of the earnest money, the same shall be refunded within a further period of four weeks thereafter together with simple interest @ 6% *per annum* from the date when the aforesaid representation was filed till the actual date of payment from 07.04.2010 when the petitioner's representation had been filed.

(Vikash Jain, J)

Ibrar/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	17.12.2018
Transmission Date	N.A.

