

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3356 of 2019

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M/s Dirghayu Mahavir Diagnostics through its Managing Director Ashraf Khan S/o Late Ramzan Khan, R/o Mohalla- Chakwasu Lane, Kachchi Sarai, Ramna, P.S.- Mithanpura, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar and Ors through the Principal Secretary, Health Department , Bihar, Patna.
2. The State Health Society through its Executive Director, Sheikhpura, Patna.
3. The Special Secretary, Health cum Executive Director, State Health Society, Sheikhpura, Patna.
4. The District Magistrate cum Chairman, District Health Society, Muzaffarpur Muzaffarpur.
5. The Civil Surgeon cum Secretary, District Health Society, Muzaffarpur.
6. The Superintendent, Sadar Hospital, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Adv. Mr. Mohit Agarwal, Adv.
For the Respondent/s	:	Mrs.Vijaya Laxmi Srivastava, AC to SC-23

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 28-06-2019 Learned counsel for the petitioner at the outset seeks permission to withdraw I.A. No.1 of 2019 with liberty to challenge the order dated 03.05.2019 issued by the Deputy Superintendent, Sadar Hospital, Muzaffarpur separately in an appropriate proceeding.

I.A.No. 1 of 2019 is permitted to be withdrawn with the liberty aforesaid.

Petitioner, in the present case, has moved this Court for the following reliefs:-



“(i) For issuance of writ of mandamus seeking direction upon the respondents particularly respondent nos.5 and 6 to make the payment of the work undertaken by the petitioner from August, 2017 to December, 2018 against providing pathological and radiological services at Sadar Hospital, Muzaffarpur.

(ii) For issuance of writ of mandamus for direction to the respondents to adhere to their own letter no.DHS/M/18/1057 dated 14.12.2018, by which services being provided by the petitioner is admitted and the payment has been withheld on account of allotment of fund, which is against the settled law.

(iii) For issuance of any other relief/reliefs and order/orders or direction of which the petitioner may entitle for and your Lordships may deem fit and proper.”

It is the case of the petitioner that the petitioner has provided pathological and radiological services in terms of the letter no.DHS/M/17/63 dated 17.01.2017 (Annexure-2) and thereafter he has submitted the bills for the services rendered from August, 2017 to March, 2018, but the payments thereof have not been made. It is further claimed that for the period August, 2017 to October, 2018 he has submitted the bills for Rs.3267522.75 vide Annexure-5 series but that has remained pending. The petitioner claims that the respondent no.5 has written a letter dated 11.12.2018 (Annexure-6) to the Special Secretary, Health-cum-Executive Director, State Health Society, Bihar for making available the funds so that the payments may



be made, but in want of allotment of the fund the petitioner is facing financial constraints, therefore, a direction may be issued to the respondents to pay the admitted amount of the petitioner.

On the other hand, learned counsel representing the State has drawn the attention of this Court towards the decision taken by the Executive Director, State Health Society, Bihar vide memo no.295 dated 12.04.2019 by which the bills of the petitioner have been referred to a Six Member Committee for auditing purposes and the petitioner has been called upon to make available the relevant materials/documents within a period of one week to the auditing team.

In the nature of the claims made by the petitioner and the stand brought on record on behalf of the respondents, this Court is of the considered opinion that the writ application may be disposed off with a direction to the Executive Director, State Health Society, Bihar to ensure that the Six Member Committee must examine and submit its report in terms of Annexure-B to the counter affidavit within a further period of two months from today because in the name of auditing the entire bills cannot be kept pending for a long time without a decision. Upon auditing of the bills whatever amount is found payable to the petitioner must be paid within a period of one month thereafter, however,



if any of the bills are not payable to the petitioner the reasons thereof must be provided to him immediately after the decision taken by the Committee.

The writ application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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