

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.833 of 2018

In

Civil Writ Jurisdiction Case No.21733 of 2013

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1. The State of Bihar, through Its Principal Secretary, Health and Family Welfare, Government of Bihar, Patna.
 2. District Magistrate Cum Chairman, District Health Society, Vaishali at Hajipur
 3. Civil Surgeon Cum Member Secretary, District Health Society, Vaishali at Hajipur
 4. Civil Surgeon Cum President, Quality Assurance Committee, Vaishali at Hajipur
 5. Additional Chief Medical Officer Cum Member Secretary, Quality Assurance Committee, Vaishali at Hajipur
 6. Dr. Smt. Malti Sinha, Medical Officer, Sadar Hospital, Hajipur Cum Member Quality Assurance Committee, Vaishali at Hajipur
 7. Dr. U.P. Verma, Medical Officer, Sadar Hospital, Hajipur Cum Member Quality Assurance Committee, Vaishali at Hajipur
 8. Dr. Nagendra Prasad, Primary Medical Officer Cum Member Quality Assurance Committee, Vaishali at Hajipur

... .. Appellants

Versus

1. M/s Alok Surgical Hospital @ Surya Clinic Through Its Proprietor Mrs. Anupam Singh W/O Dr. Mithilesh Kumar Singh Situated At Mahua, P.S.- Mahua, District- Vaishali at Hajipur
2. The State Health Society, Bihar Through Executive Director, Parivar Kalyan Bhawan, Sheikhpur, Patna
3. Shri Rituraj, N.G.O., Member Quality Assurance Committee, Vaishali at Hajipur
4. Smt. Sandhya Gautam, Member Quality Assurance Committee, Vaishali at Hajipur

... .. Respondents

with

Letters Patent Appeal No. 834 of 2018

In

Civil Writ Jurisdiction Case No.21864 of 2013

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1. The State of Bihar through its Principal Secretary, Health and Family Welfare, Government of Bihar, Patna.
 2. District Magistrate-Cum-Chairman, District Health Society, Vaishali at Hajipur
 3. Civil Surgeon Cum Member Secretary, District Health Society, Vaishali at Hajipur
 4. Civil Surgeon Cum President, Quality Assurance Committee, Vaishali at Hajipur
 5. Additional Chief Medical Officer Cum Member Secretary, Quality Assurance Committee, Vaishali at Hajipur
 6. Dr. Smt. Malti Sinha, Medical Officer, Sadar Hospital, Hajipur Cum Member Quality Assurance Committee, Vaishali at Hajipur
 7. Dr. U.P. Verma, Medical Officer, Sadar Hospital, Hajipur Cum Member Quality Assurance Committee, Vaishali at Hajipur



8. Dr. Nagendra Prasad, Primary Medical Officer Cum Member, Quality Assurance Committee, Vaishali at Hajipur

... .. Appellants

Versus

1. M/s Kunal Hospital Through Its Proprietor Binod Kumar Suman S/o Shri Ram Lakhan Singh Situated at Samastipur Road, Mahua, District- Vaishali at Hajipur.
2. The State Health Society, Bihar Through Executive Director, Parivar Kalyan Bhawan, Sheikhpur, Patna
3. Shri Rituraj, N.G.O., Member Quality Assurance Committee, Vaishali at Hajipur
4. Smt. Sandhya Gautam, Member, Quality Assurance Committee, Vaishali at Hajipur

... .. Respondents

with

Letters Patent Appeal No. 839 of 2018

In

Civil Writ Jurisdiction Case No.21653 of 2013

1. The State of Bihar, through Its Principal Secretary, Health and Family Welfare, Government of Bihar, Patna.
2. District Magistrate Cum Chairman, District Health Society, Vaishali at Hajipur
3. Civil Surgeon Cum Member Secretary, District Health Society, Vaishali at Hajipur
4. Civil Surgeon Cum President, Quality Assurance Committee, Vaishali at Hajipur
5. Additional Chief Medical Officer Cum Member Secretary, Quality Assurance Committee, Vaishali At Hajipur
6. Dr. Smt. Malti Sinha, Medical Officer, Sadar Hospital, Hajipur Cum Member Quality Assurance Committee, Vaishali at Hajipur
7. Dr. U.P. Verma, Medical Officer, Sadar Hospital, Hajipur Cum Member Quality Assurance Committee, Vaishali at Hajipur
8. Dr. Nagendra Prasad, Primary Medical Officer Cum Member, Quality Assurance Committee, Vaishali at Hajipur

... .. Appellants

Versus

1. M/S Nandraj Nursing Home Through Its Proprietor Subodh Kumar Yadav S/o Nandlal Prasad Yadav, Situated at- Tinpulwa Chowk, Lalganj, Vaishali.
2. The State Health Society, Bihar Through Executive Director, Parivar Kalyan Bhawan, Seikhpura, Patna
3. Shri Rituraj, N.G.O., Member, Quality Assurance Committee, Vaishali at Hajipur
4. Smt. Sandhaya Gautam, Member, Quality Assurance Committee, Vaishali at Hajipur

... .. Respondents

with

Letters Patent Appeal No. 840 of 2018

In

Civil Writ Jurisdiction Case No.21963 of 2013



1. The State Of Bihar, through its Principal Secretary, Health and Family Welfare, Govt. of Bihar, Patna
2. District Magistrate Cum Chairman, District Health Society, Vaishali At Hajipur
3. Civil Surgeon Cum Member Secretary, District Health Society, Vaishali At Hajipur
4. Civil Surgeon Cum President, Quality Assurance Committee, Vaishali At Hajipur
5. Additional Chief Medical Officer Cum Member Secretary Quality Assurance Committee, Vaishali At Hajipur
6. Dr. Smt. Malti Sinha, Medical Officer, Sadar Hospital, Hajipur Cum Member Quality Assurance Committee, Vaishali at Hajipur
7. Dr. U.P. Verma, Medical Officer, Sadar Hospital, Hajipur Cum Member Quality Assurance Committee, Vaishali at Hajipur
8. Dr. Nagendra Prasad, Primary Medical Officer Cum Member, Quality Assurance Committee, Vaishali At Hajipur

... .. Appellant/s

Versus

1. M/s Harideo Clinic Through Its Proprietor Dilip Kumar Singh S/O Dharamdeo Singh, Tinpulwa Chowk, P.S. Lalganj, District - Vaishali At Hajipur
 2. The State Health Society Bihar Through Its Executive Director, Parivar Kalyan Bhawan, Seikhpura, Patna
 3. Shri Rituraj, N.G.O., Member, Quality Assurance Committee, Vaishali At Hajipur
 4. Smt. Sandhaya Gautam, Member, Quality Assurance Committee, Vaishali At Hajipur
- Respondent/s

Appearance :

(In Letters Patent Appeal No. 833 of 2018)

For the Appellant/s : Mr. Ajay Bihari Sinha, GA-8
Mr. Suryakant Kumar AC to GA8
For the Respondent/s : Mr. Anurag Saurav, Adv.
For the State Health Society: Mr. K.K.Sinha

(In Letters Patent Appeal No. 834 of 2018)

For the Appellant/s : Mr. Ajay Bihari Sinha, GA8
Mr. Suryakant Kumar, AC to GA8
For the Respondent/s : Mr. Anurag Saurav, Adv.
For the State Health Society: Mr. K.K.Sinha, Adv.

(In Letters Patent Appeal No. 839 of 2018)

For the Appellant/s : Mr. Ajay Bihari Sinha, GA8
Mr. Suryakant Kumar AC to GA8
For the Respondent/s : Mr. Anurag Saurav, Adv.
For the State Health Society: Mr. K.K.Sinha, Adv.

(In Letters Patent Appeal No. 840 of 2018)

For the Appellant/s : Mr. Ajay Bihari Sinha, GA8
Mr. Suryakant Kumar AC to GA8
For the Respondent/s : Mr. Anurag Saurav, Adv.
For the State Health Society: Mr. K.K.Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA



ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 25-02-2019

Heard Mr. Ajay Bihari Sinha, learned GA-8 for the appellants in the four appeals, which are being heard analogous. Mr. Kishore Kumar Sinha, learned counsel appears for the respondent State Health Society in each of the four appeals while Mr. Anurag Saurav, learned counsel appears for the respondent-writ petitioner in each of the appeals.

It is feeling aggrieved by a common judgment and order passed by a learned Single Judge of this Court dated 30.10.2017 in the batch of writ petitions bearing C.W.J.C.No. 21733/2013, which was heard analogous with C.W.J.C.Nos. 21963/2013, 21864/2013 and 21653/2013, whereby the learned Single Judge while bearing note of the contest as regarding payment of the bills of the Nursing Homes/ hospitals, who were the petitioners before the Writ Court as also bearing note of the fact that this dispute was engaging the Court since the year 2008, has allowed the writ petition with the direction to the concerned respondents to make payment of the dues of the petitioners within a period of three months from the date of receipt/production of a copy of the judgment, that the State as the appellant is before this Court.



For the sake of convenience we are persuaded to take note of some foundational facts which has led to the order passed by the learned Single Judge and put to challenge before this Court. An advertisement was published by the State Health Society way back on 24.10.2007 inviting application from the Nursing Homes/Hospitals for accreditation for the purpose of conducting delivery and family planning operation under the “Janani Bal Suraksha Yojna” (hereinafter referred to as ‘the Scheme’) for which family planning packages were framed. Obviously the applicants needed to have infrastructural as well as manpower support for taking over such responsibility. It is not in dispute that a Committee headed by the Civil Surgeon cum Chief Medical Officer, Vaishali examined the applications and recommended the four writ petitioners, who are respondents before this Court, for accreditation and even advance was given to these Nursing Homes against appropriate Bank guarantees according to the stipulation present in ‘the Scheme’. These Nursing Homes/Hospitals were entitled to get Rs. 1350 per case for Tubectomy and Rs. 1300/- per case for conducting Vasectomy operation as an incentive. In turn these Nursing Homes/Hospitals were not supposed to charge any fee from the beneficiaries. There were some other stipulations in the scheme



but in so far as issue in hand is concerned, we are concerned with the claim raised by the writ petitioners for conducting these operations and which has been pending for more than a decade. It is the case of the respondent- writ petitioners that following their accreditation by the Committee, they conducted the operation as per 'the Scheme' and raised their respective bills which were not forthcoming and when it was the turn of the Society to make payment for the operation performed by these Nursing Homes/Hospitals, the District Health Society had a laid back attitude forcing them to come before this Court in CWJC No. 18226/2009 which was heard and allowed by a Bench of this Court by the judgment and order dated 24.11.2011 on the following terms:

“ Considering the averments made by learned counsel for the parties and the materials on record, this writ petition is disposed of with a liberty to the petitioner to approach the Civil Surgeon-cum-Member Secretary, District Health Society, Vaishali along with an application giving the details of his claims and interest. If such an application is filed by the petitioner within fifteen days from today along with a copy of this order, the said authority shall consider the same in accordance with law and shall decide it by a speaking order within three months thereafter and if any amount or interest is found



admitted and payable it should be paid to the petitioner immediately thereafter. However, if any amount or interest is not admitted and payable in the said order, the petitioner will be at liberty to challenge the same before an appropriate forum.”

The Civil Surgeon-cum-Member Secretary, State Health Society, Vaishali was directed to examine the claim filed by the writ petitioners and decide the same by a speaking order within three months of raising of such claim. The claims were raised and has been rejected by the order bearing Memo No. 907 dated 20.10.2012 of the Civil Surgeon-cum-Member Secretary, District Health Society, Vaishali and the reasons attached is that these Nursing Homes/Hospitals did not have infrastructural/manpower support for accreditation nor the Civil Surgeon-cum-Member Secretary of the District Health Society was empowered to give them letter of accreditation. It is feeling aggrieved by the rejection that the petitioners approached this Court through the writ petitions in question which have been allowed.

It is noted from the order impugned in the writ petition dated 20.10.2012 that neither the bills were doubted on their veracity nor there was any doubt raised on the number of operations performed by these Nursing Homes/Hospitals, rather the District Health Society having obtained the services of these



Nursing Homes/Hospitals since the year 2007-08 have refused to make payment of the claims now on the ground that they did not have infrastructural/manpower support for obtaining letter of accreditation and even if the Civil Surgeon cum Member Secretary of the District Health Society had given them such letter of accreditation, he was not empowered to do so which power was exclusively reserved for the District Magistrate, Vaishali, in the present case as the Chairperson of the Society.

Learned Single Judge having noted the contest as well as the opposition by the District Health Society to the payment of claims found it arbitrary for according to the learned Single Judge the Hospitals having conducted operations on issuance of letters of accreditation, it was too late in the day for the Society to reject the claims either on grounds of infrastructural support or on the jurisdiction of the Civil Surgeon to issue such letter to these hospitals/Nursing Homes. Since the learned Single Judge has issued direction for payment of claims that the State along with the District Health Society, Vaishali are before this Court questioning composite judgment and order of the learned Single Judge passed in the case of the respondent- writ petitioners who had approached this Court individually through their respective writ petitions.



This matter was last heard on 20.02.2019 and when this Court taking note of the inter-party contest allowed time to the respondents to respond on the issue, whether, they had any reservation on the bills submitted by the Nursing Homes/Hospitals. The matter was posted for today and when Mr. A.B. Sinha, learned GA-8 along with Mr. K.K. Sinha, learned Counsel for the State Health Society have jointly submitted that the Department has not gone into the thickets of the claim and even though the matter is pending since 2007, none has bothered to examine the claim put forth by the Nursing Homes/Hospitals on their genuineness. It is on receiving instruction from the Principal Secretary, Health that Mr. A.B.Sinha, learned GA-8 submits that the appellants may be allowed to examine the claims of the petitioners within four weeks next and whatsoever would be the admissible amount payable to the petitioners on the basis of claim so raised, would be paid within six weeks next. Such is the submission made by Mr. Sinha, learned GA-8 which is seconded by Mr. K.K. Sinha, learned Counsel representing the State Health Society but while doing so they also submit that the authority to examine the bills and pass appropriate orders thereon and on its veracity as well as admissibility would be the District



Magistrate, Vaishali as the Chairperson of the District Health Society.

Mr. Anurag Saurav, learned counsel representing the respondents- writ petitioners i.e. the Nursing Homes/ Hospitals, who have been running around for their justifiable claim, can have no objection to the suggestion because despite a decade lapsed since the claims were raised, they are yet to be examined on its admissibility and payment. We can appreciate the predicament of the Nursing Homes/ Hospitals for having rendered service under 'the Scheme' whereunder they were not allowed to realize any charges from the beneficiaries but when time came to derive the benefit for the service rendered that for the last 12 years these Nursing Homes/ Hospitals have been made to run around the Courts for obtaining their admissible payments. This is very unfortunate because such liberty had already been given to the respondents by a Single Judge of this Court on the earlier round of litigation i.e. to examine the respective claims and make payment thereof within a period of three months. The order was passed way back on 24.11.2011 and until today, the matter hangs limbo. Seven years has gone past thereafter and when the Health Department together with the



State Health Society are now agreeable to discharge their obligation in the manner required to be done, seven years back.

Having considered the rival submissions as noted in the discussions above, we find no infirmity in the order of the learned Single Judge to cause any interference therewith save and except that the District Magistrate, Vaishali cum Chairperson, District Health Society, Vaishali would examine the claim set up by the writ petitioners, satisfy himself on its varacity and thereafter make payment of the admissible amount within a total period of eight weeks from today and it goes without saying that any of the bills which to the opinion of the District Magistrate, Vaishali raises concern and/or is not found admissible should be disposed of by a speaking order to be passed within the same time.

The period of compliance as directed by the learned Single Judge is extended by further eight weeks from today. It is further directed that should the respondent District Magistrate cum Collector, Vaishali fail to make payment of the admissible amount by 27th April, 2019, each of the respondent- writ petitioner would be entitled to interest on their pending claims @ 7% per annum payable from the date the respective bill became due until the date of payment.



The order of the learned Single Judge put to challenge
before this Court shall stand modified to the extent above.

The appeals are disposed of accordingly.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Archana/
Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	15.03.2019
Transmission Date	NA

