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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3870/2014 & CM No. 7811/2014**

M/S. ROCKLAND HOSPITAL LTD. Petitioner

Through: Mr Mushtaq Sanam and Mr
Prateek Singh Choudhary,
Advocates.

versus

GOVT OF NCT OF DELHI & ANR. Respondents

Through: Mr Naushad Ahmed Khan,
ASC, Mr Zahid and Ms
Manisha, Advocates for
GNCTD.

Mr Vaibhav Agnihotri proxy
for Mr Ajay Verma, Sr.
Standing counsel for DDA.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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13.02.2019

VIBHU BAKHRU, J

1. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to respondents not to take any coercive action against the petitioner pursuant to the judgment dated 22.03.2007 passed in W.P. (C) 2866/2002 (*Social Jurists, a Lawyers Group v. Government of NCT of Delhi & Ors. : 140 (2007) DLT 698 (DB)*). The petitioner also impugns a show cause notice dated 08.08.2013 issued by respondent no.1 calling upon the petitioner to explain as to why action should not be initiated against the petitioner in terms of paragraph 90, 91, 91A and 91G of the decision of the Division Bench of this Court in the case of *Social Jurists*,

a Lawyers Group v. Government of NCT of Delhi & Ors. (supra).

2. The petitioner also prayed that clause 5 of the conditions mentioned in the auction acceptance letter dated 08.04.2008 and the brochure dated 12.03.2008 issued by respondent no.2 (DDA) be quashed.

3. In the case of *Social Jurists (supra)*, the Division Bench of this Court had passed directions that all 20 hospitals mentioned in the said judgment of and/or all other hospitals, which are identically situated, would comply with the condition of providing free medical treatment to indigent/poor persons of Delhi as specified; that is, 25% OPD and 10% IPD patients would be treated “completely free of charges in all respects”. The petitioner states that it is not similarly placed as the hospitals (twenty in number) mentioned in the aforesaid decision and, therefore, the direction for the petitioner to provide free medical services to EWS category patients is inapplicable to the petitioner.

4. The learned counsel appearing for the petitioner contended that the petitioner had purchased the plot for construction of a hospital in an auction at commercial rates and, therefore, it had no obligation to provide any free treatment to patients of EWS category. It is contended that the requirement to provide free medical services is applicable only to hospitals that are construed on land provided at concessional rates.

5. DDA has filed a counter affidavit, which indicates that the petitioner had participated in an auction for purchase of a plot of land located at Section 12, HAF-B, Phase-1, Dwarka, Delhi, on the terms and conditions as agreed prior thereto. The said plot was sold only on an

express condition that it would not be used for any purpose other than that of a nursing home. Undisputedly, the land acquired by the petitioner was only for a specified purpose.

6. It is also relevant to note that the terms and conditions of the auction were duly disclosed to the petitioner, and the petitioner had accepted the same prior to participating in the bidding process. Clause 5 of the said terms and conditions is relevant and reads as under:-

“5. The plot of building thereon shall not be used for any purpose other than that of Hospital & Nursing Home as the case may be. The successful bidder shall also confirm to rules of GNCTD and other regulatory bodies before the Hospital & Nursing Home is made functional. The Hospital / Nursing Home shall also confirm to free Treatment as may be fixed by GNCTD / GOI from time to time Violation of these rules shall lead to cancellation of lease.”

7. The petitioner's bid was accepted and the DDA issued a letter dated 08.04.2008 communicating the same. The said letter clearly indicated that the DDA had accepted the petitioner's bid subject to several conditions stated therein. Clause 5 of the said conditions also expressly included the condition that the plot would be used only for building a nursing home and the nursing home would also conform to the requirement of free treatment as may be prescribed by Govt of NCT/Government of India from time to time. Clause 4 and 5 of the conditions are relevant and are set out below:-

“4.The plot of building thereon shall not be used for any purpose, other than that of Nursing home. The bidder shall

also conform to rules of GNCTD and other regulatory bodies, before the Nursing home is made functional.

5. The Nursing home shall also conform to the be prescribed by the GNCTD/Govt. of India, from time to time. Violation of these rules shall lead to cancellation of the lease.”

8. In view of the above, the petitioner’s contention that it is not obliged to provide free medical service to EWS category patients as prescribed by GNCT of Delhi, is bereft of any merit.

9. This Court also finds no merit in the petitioner’s challenge to Clause 5 of the acceptance letter dated 08.04.2008 or the brochure dated 12.03.2008 issued by the DDA. The petitioner had participated in the auction on the basis of the terms and conditions stated therein, and it is not open for the petitioner to now challenge the same.

10. In view of the above, the petition is dismissed with costs quantified at ₹25,000/-. The cost shall be paid to the Delhi High Court Legal Services Committee within a period of two weeks.

11. The pending application is disposed of.

VIBHU BAKHRU, J

FEBRUARY 13, 2019

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