

\$~14

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

+ W.P.(C) 6457/2013 & CM No. 1018/2014

**SOCIETY FOR ERADICATION OF CRUELITIES
TO HUMANS**

..... Petitioner

Through: Ms Nanda Devi Deka and Ms
Runasree Buragohain, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr Satyakam, Advocate for
Additional Standing Counsel,
GNCTD with Mr R. D. Sharma, Dept.
of Family Welfare.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **13.02.2019**

1. The petitioner is a society registered under the Societies Registration Act, 1860. The petitioner is, *inter alia*, engaged in providing certain medical services to persons in need of the same. The petitioner operates a charitable hospital (Lala Hari Hospital) from the premises bearing No. A-345, New Ranjit Nagar, New Delhi. The petitioner claims that it has been providing various services, such as house-to-house survey of the area allotted by the Department of Family Welfare; immunization to children; Antenatal care to the pregnant women; post natal care; primary health services; out reach services, for holding meetings with adolescents, education talk etc.; copper T insertion; distribution of the contraceptive and oral pills (house to house); family welfare advice; and family planning

service (lap ligation).

2. The petitioner claims that all the aforesaid services are provided free of cost.

3. In view of the services rendered by the petitioner, the petitioner was allocated a “Health Post” under the “Family Welfare Programme – Revamping of the Organisational and Service Delivery Out-reach system for Family Welfare and MS. H care in Urban Slums and congested areas of Delhi”. In terms of the same the respondents sanctioned certain staff (eight-in-number) comprising of (i) a lady doctor; (ii) a public health nurse; (iii) auxiliary nurse (midwife) (four-in-number); (iv) computer-cum-clerk; (v) and a class-IV employee (female).

4. Against the aforesaid staff, the petitioner was granted certain recurring expenses as well as non-recurring expenses.

5. It is the petitioner’s case that the said staff has been duly functioning and providing service as required by them. However, the respondents have withheld disbursement of the grant-in-aid from the year 2009 and have further withdrawn the sanction with effect from 01.04.2013 by an order dated 19.03.2013.

6. The learned counsel appearing for the petitioner has referred to various inspection reports with regard to the said programme, which indicates that there were no serious flaws or irregularities found on the part of the petitioner in running the Health Post. Further, the observations made by the Inspecting Teams were also duly addressed. The counter affidavit filed by the respondents also does not indicate that the petitioner’s services were found wanting in regard to the said programme.

7. It is the respondents case that the petitioner had received aid in respect of another programme for family welfare and certain irregularities were found with regard to the conduct of the said programme. It is alleged that the petitioner had reported that it had provided certain services to certain persons but, upon verification, it was found that those persons were not available at the addresses so provided.

8. The petitioner also disputes the aforesaid allegations and asserts that the petitioner had been providing necessary services as claimed. It is contended that the said programme has no bearing on the Health Post sanctioned by the petitioner as that programme was a separate programme and was administered by another unit (Family Welfare Operation Unit/Sterilization Unit). It is also submitted by the learned counsel for the petitioner that the said programme has not been terminated.

9. Mr Satyakam, learned counsel appearing for respondent no.1 contends that the two units – Health Post and the Operating Unit – are not independent, but interdependent on each other. He also states that the doctor in-charge of the Health Post was also working as an Operating Surgeon in the Operating Unit/Sterilization Operation Unit.

10. The two units – the Health Post and the Sterilisation unit – appear to be separate. The disbursement with regard to the same is also on different parameters. There is also little material to doubt the petitioner's claim that the sanctioned staff had been working and rendering the services at the material time. The Health Post unit was also inspected and the contention that no serious irregularities were found, is merited.

11. In the aforesaid circumstances, this Court is of the view that the

petitioner disbursement of grant-in-aid (Urban Family Revamping Scheme) could not be terminated without issuing a proper show-cause notice and without affording the petitioner an opportunity to contest the allegations levelled against the petitioner or their relevance to the sanction. This Court is also informed that the staff, as sanctioned by the respondents, are also functioning and there is no material to doubt the same.

12. In view of the above, the impugned order dated 19.03.2013 withdrawing the sanction, is set aside. This Court considers it apposite to direct the concerned respondents to consider the petitioner's case for disbursement of grant-in-aid and for continuation of the programme. This Court is refraining from passing an order directing disbursement of aid, as it considers it apposite to leave it to the respondents to take an informed decision in this regard after reviewing the record and seeking any clarification that the concerned respondents consider it necessary.

13. The petitioner would be at liberty to make a detailed representation with regard to the above. The respondents would be at liberty to seek further information with regard to the working of the Health Post from the petitioner to satisfy themselves that the petitioner has diligently discharged the services as required. In the event, the respondents are of the view that there is any irregularity in running of the programme, the same shall be communicated to the petitioner and the petitioner would be given full opportunity to respond to the same. The concerned authority shall take an informed decision after affording the petitioner an opportunity to be heard in this regard. Needless to state that if the petitioner is aggrieved by the same, the petitioner is at liberty to apply.

14. The petition is disposed of in the aforesaid terms. The pending application is disposed of.

15. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

FEBRUARY 13, 2019/MK