

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.914 of 2022

Akhilesh S/o Prasad Madhawa R/o - Ujjain Complex, Dak Bunglow Road,
Patna, P.S. Kotwali, Dist - Patna - 800001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
3. The Additional Chief Secretary, Vigilance Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Health Govt. of Bihar, Patna.
5. The Special Secretary, Department of Health, Govt. of Bihar, Patna.
6. The Director Ayurved cum Drawing and Disbursing Officer, Directorate of Ayush, Govt. of Bihar, Patna -7.
7. The State Programme Officer, The State Aayush Samitee, Bihar, Patna.
8. The Superintendent, P.M.C.H., Ashok Rajpath, Patna - 6.
9. The Principal, P.M.C.H., Ashok Rajpath, Patna - 6.
10. The Superintendent, A.N.M.C.H., Gaya, Bihar.
11. The Principal, A.N.M.C.H., Gaya, Bihar.
12. The Director, Lok Nayak Jai Prakash Hospital, Rajbanshi Nagar, Patna - 23.
13. The Superintendent, Govt. Ayurvedic College, Kadamkuan, Patna - 6.
14. The Principal, Govt. Ayurvedic College, Kadamkuan, Patna - 6.
15. The Superintendent, Govt. Ayurvedic College, Begusarai, Bihar.
16. The Principal, Govt. Ayurvedic College, Begusarai, Bihar.
17. The Principal, Govt. RBTS Homeopathic Medical College and Hospital, Muzaffarpur.
18. The Principal, Govt. TIBBI College, Patna - 800006.
19. The Superintendent, Govt. TIBBI Hospital, Patna - 800006.
20. The Prabandhak, Govt. Ayurvedic and Unnani Aushadhi Niramanshala, Patna.
21. The Deshi Chikitsa Padadhikari, Patna.
22. The Deshi Chikitsa Padadhikari, Begusarai, Bihar.
23. The Deshi Chikitsa Padadhikari, Muzaffarpur, Bihar.
24. The Deshi Chikitsa Padadhikari, Aurangabad, Bihar.
25. The Deshi Chikitsa Padadhikari, Bhojpur Ara, Bihar, Bihar.
26. The Deshi Chikitsa Padadhikari, West Champaran, Bettiah.
27. The Deshi Chikitsa Padadhikari, East Champaran Motihari.
28. The Deshi Chikitsa Padadhikari, Bhagalpur.
29. The Deshi Chikitsa Padadhikari, Saran, Chhapra.

30. The Deshi Chikitsa Padadhikari, Siwan.
31. The Deshi Chikitsa Padadhikari, Darbhanga.
32. The Deshi Chikitsa Padadhikari, Samastipur.
33. The Deshi Chikitsa Padadhikari, Saharsa.
34. The Deshi Chikitsa Padadhikari, Gaya.
35. The Deshi Chikitsa Padadhikari, Gopalganj.
36. The Deshi Chikitsa Padadhikari, Munger.
37. The Deshi Chikitsa Padadhikari, Sasaram, Rohtas.
38. The Deshi Chikitsa Padadhikari, Sitamarhi.
39. The Deshi Chikitsa Padadhikari, Vaishali, Hajipur.
40. The Deshi Chikitsa Padadhikari, Biharsharif, Nalanda.
41. The Deshi Chikitsa Padadhikari, Purnia.
42. The Deshi Chikitsa Padadhikari, Nawada.
43. The Deshi Chikitsa Padadhikari, Madhubani.
44. The Deshi Chikitsa Padadhikari, Khagaria.
45. The Deshi Chikitsa Padadhikari, Madhepura.
46. The Deshi Chikitsa Padadhikari, Katihar, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sudha Chandra, Advocate
For the Respondent/s : Mr.S.D. Yadav (AAG9)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 12-07-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following reliefs:-

“i. To issue an appropriate writ, order or direction for instituting a High level Inquiry / Vigilance Inquiry in the “Health Appointment Ghotala 2019” as violating every established norms of the Govt., as also ignoring the General Financial Rules (GFR) Guidelines, without issuing any Tender, Public Notice or giving any information to the people, the respondents have adopted an uncommon, illegal and dishonest method to award contract costing more than Rs.36,00,00,000 (Rupees Thirty Six Crores) for the supply of

Manpower to an Service Provider Agency M/s Vaishnavi Hospital, Maurya Vihar Colony, Agamkuan, Patna which has neither the required experience / financial capacity or required infrastructure to provide such a huge Manpower Service to the Govt. Departments and further punish the wrong doers after the Report of Committee/Vigilance.

ii. To issue further appropriate writ, order or direction commanding the respondent Principal Secretary to cancel the entire Work Order issued in favour of undeserving Service Provider Agency-M/s. Vaishnavi Hospital, Maurya Vihar colony, Agamkuan, Patna forthwith awarded illegally / fraudulently by practicing Fraud to the aforementioned Agency without any public Notice. Tender or after following the due process prescribed by the Govt. for the allotment of the Tender / work.

iii. That since Service Provider Agency – M/s Vaishnavi Hospital, Maurya Vihar Colony, Agamkuan, Patna has obtained the contract of supply of man power by playing fraud against all norms in connivance with the dishonest officials at the Command of Departmental Minister as such this Hon'ble Court should issue appropriate direction that work Experience credited to the Agency by virtue of illegal allotment of work his this work Experience should be deleted from his work experience and the Service Provider Agency should be forthwith Black Listed with Fine / cost. And no work in future be awarded to this dishonest Agency.

iv. To issue further appropriate writ, order or direction commanding the respondents authorities to punish all the officials and all responsible persons who has committed / facilitated the wrong in the matter of the illegal allotment of such a huge Government work.

v. This Hon'ble Court may adjudicate and hold that it was the statutory duty of the respondents to issue required Tender before awarding such a big Contract to any Agency for supply the Man Power to the Govt. Department/ Establishments as per the existing Rules and Regulations of the State Govt./Central Govt.

vi. This Hon'ble Court may further adjudicate and hold that respondents have no right / jurisdiction to award any such big contract to any individual or Agency against the norms of the Govt as also ignoring the General Financial Rules (Here in after referred to as GFR) Guidelines.

vii. This Hon'ble Court may further adjudicate and hold that award of contact to M/s Vaishnavi Hospital, Maurya Vihar Colony, Agamkuan, Patna, against the norms of the Govt as also ignoring

the GFR Guidelines without assessing his financial capacities and also without completing the necessary required formalities of award of the contract to the Service Provider is an act of malafide and most arbitrary exercise of the Authority by the respondents?

viii. This Hon'ble Court may further adjudicate and hold that whether a Service Provider can be given such a big Contract Work without any open Tender, as also without providing the average turnover of Rs.10 Crores for 3 years and without depositing the 10% security amount of annual work value as required per guidelines of the Govt.?

ix. This Hon'ble Court may further adjudicate and hold that the proprietor M/s Vaishnavi Hospital the service Provider Agency cannot be allowed to issue, advertisement for the purpose recruitment in the different Govt. Department/ Establishments.

x. To award any other relief or reliefs as this Hon'ble Court may deem fit and proper in the light of the facts of this case."

Counter affidavit has been filed on behalf of respondents and relevant paragraphs of which are extracted here-in-below:-

"10. That after indepth review of the matter, Additional Chief Secretary, Health Department, Government of Bihar, has passed an order issued vide memo no. 228(Aa.Chi.)dated 10.03.2022 whereby and whereunder the Director General Ayush, Bihar, has been directed to ensure completion of roster clearance within next three months and send requisition to the Bihar Technical Service Commissioner for such appointment and it has further been ordered that outsourcing of manpower under temporary arrangement should be done in transparent manner after notice inviting tender. Aforesaid order must be complied by 1st April, 2022.

11. That thereafter, the Special Secretary, Health Department, Govt. of Bihar, vide his memo no. 232 (Aa.Chi)dated 11.03.2022 has communicated the following orders to the Director General, Ayush Bihar, Patna.

(i)Requisition for regular appointment on class-3 and 4 posts may be sent to the Bihar Technical Service commission within three months after obtaining roster clearance.

(ii)Action for termination of the contract with

Vaishnawi Hospital, Patna should be taken by 31.03.2022.

(iii) In other offices, dispensaries and Hospitals of Ayush Sector, assessment of posts may be made for obtaining manpower through outsourcing afresh as a temporary arrangement in transparent manner after inviting tender w.e.f. 01.04.2022.

12. That thereafter, the Joint Secretary cum Director General, Ayush Bihar vide his memo no. 241 (Aa.Chi.)dated 14.03.2022 has informed Sri Prince Kumar Tiwary, patner of Vaishnawi Hospital, Patna, that his contract for supply of manpower is being cancelled w.e.f. 31.03.2022.”

In view of statement made in paragraph nos. 10 to 12 of the counter affidavit, no purpose would be served by keeping this PIL pending.

Accordingly, writ petition is disposed of.

Liberty is reserved to the petitioner to approach this Court for same and subsequent cause of action, if so arises.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.08.2022
Transmission Date	NA