

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.4666 of 2014**

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Shantidoot An NGO Having Its State Head Office at 201 R-Enclave, Road No. 3/331, New Patliputra Colony, P.O. and P.S.- Patliputra, District- Patna- 800013 Through Its Chairman Sri Avijeet Kumar, Son Of Late Devendra Prasad Singh

... .. Petitioner/s

Versus

1. State Health Society /asha Resource Centre (A resource Centre of Asha and Community Process, With State Health Society (NRHM), Department Of Health and Family Welfare, Government Of Bihar, Sheikhpura, Pariwar Kalyan Bhawan, Patna- 800014 Through The Secretary, Health Cum Executive Director.
2. The Secretary, Health Cum Executive Director, State Health Society, Bihar At Pariwar Kalyan Bhawan, Sheikhpura, Patna- 800014
3. The District Magistrate Cum Chairman, District Health Society, Bihar Sharif, Nalanda
4. Civil Surgeon Cum Member Secretary, District Health Society, Nalanda, Bihar Sharif
5. Civil Surgeon Cum Member Secretary, District Health Society, Madhubani
6. The Joint Director, Health Services, Bihar, Patna
7. Ms. Vasudha Gupta Daughter Of P.N. Gupta, Resident Of 305, Nutam Uma Vihar, Uma Path, Near Awadhपुरी Gas Agency, Kankarbagh, Patna- 800020

... .. Respondent/s

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**Appearance :**

|                          |   |                                   |
|--------------------------|---|-----------------------------------|
| For the Petitioner/s     | : | Mr. Raju Giri, Advocate           |
|                          |   | Mr. Santosh Kr. Mishra, Advocate  |
| For the Respondent/s     | : | Mr. Rajiv Kumar Singh, Advocate   |
| For State                | : | Mr. Prabhakar Jha, GP 27          |
|                          |   | Mr. Mukund Mohan Jha, AC to GP 27 |
| For State Health Society | : | Mr. K.K. Sinha, Advocate          |

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**and**

**HONOURABLE MR. JUSTICE ARUN KUMAR JHA**  
**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)**

**Date : 12-05-2023**

Heard learned counsels for the respective parties.



2. In the instant petition, petitioner has prayed for the following reliefs:

“i. To issue an appropriate writ / order / direction, in the nature of Certiorari for quashing the Order dated 12.02.2014 passed by the Secretary, Health cum Executive Director, Bihar State Health Society by which the tripartite agreement entered in between the Petitioner, District Health Society, Nalanda and State Health Society on 31<sup>st</sup> January, 2012 and also another tripartite agreement entered in between the Petitioner and the District Health Society Madhubani and State Health Society on 31<sup>st</sup> January 2012 for imparting training to ASHAs on Modules 5, 6 & 7 in 20 Blocks of Nalanda and 06 Blocks of Madhubani have been cancelled and further the Petitioner's Organization has been blacklisted for five years and also the Petitioner's Organization has been debarred to work with and participate in any tenders of Health Department and also of other Organizations of the State of Bihar and also it has been directed to forfeit the Bank Guarantee of about Rs. 9 Lacs of the Petitioners' Organization (As contained in Annexure - )

ii. To any other relief or reliefs for which the Petitioner is found to be entitled in the facts and circumstances of the case.”

3. There was a tripartite agreement in which the petitioner was required to execute the work of imparting training to ASHA Trainers. The official respondent have noticed that there were certain shortcomings while imparting training to ASHA



Trainers. Taking note of the same, proceeded to issue show-cause notice and seeking petitioner's explanation, thereafter, it proceeded to terminate the contract, further, directing to forfeit the bank guarantee. Interim order in favour of the petitioner is operating even to this day.

4. In the light of these facts and circumstances read with Clause 9 of the agreement dated 31.01.2012, the petitioner has made out a case.

5. It is necessary to reproduce Clause 9 relating to

**Suspension and Termination:**

“9.1 All three parties will have the right to withdraw from this MoU, on non-compliance of the commitment mentioned in it by other party/parties, by giving a prior notice of one month.

9.2 The **SHANTIDOOT** District training agency will not outsource the said training of Asha & Asha facilitators or its part, to any other agency.

9.3 Any dispute or difference or claim arising out of or in relating to this MoU, including the validity, performance or breach thereof, which the parties hereto cannot themselves settle by reaching a mutual understanding, shall be referred to an Arbitrator mutually agreeable to this parties herein, for settlement under the current law, and the award of the Arbitrator shall be final and binding on the parties. The arbitrator shall be Principal Secretary, Dept of Health (Government of Bihar).



9.4 If any further dispute arises between the parties, the same will be settled only through courts under the territorial jurisdiction at Patna only.”

6. Clause 9.3 is crystal clear that if there is any dispute among the parties including performance or breach thereof, remedy is for arbitration.

7. Accordingly, order dated 12.02.2014 stands set aside reserving liberty to the respective parties to invoke Clause 9.3 in accordance with law.

**(P. B. Bajanthri, J)**

**( Arun Kumar Jha, J)**

GAURAV S./-

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| AFR/NAFR          | NAFR       |
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