

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP-6754-2023

Date of Decision: 19.04.2023

Simran Enterprises resident cum office Gali Teja Singh Wali, Railway Road
Tarn Taran through its proprietor Simranjit Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Vaibhav Narang, Advocate,
for the petitioner.

ARUN PALLI, J.

1) The petitioner herein, has prayed for the following substantive relief:-

“Under Articles 226/227 of the Constitution of India, praying for issuance of a writ in the nature MANDAMUS directing the respondents to restore the status of petitioner as food supplies in the de-addiction centre, Tarn Taran, as the same has been taken away illegally on oral orders and permission granted to respondent No.5, without there being any fresh tender or advertisement.”

2) Learned counsel for the petitioner submits that petitioner-firm had been supplying food at de-addiction centre, Tarn Taran, for over four years, and during this period, there was not even a single complaint as regards the standard and quality of food that was being supplied. However, suddenly, on March 01, 2023, respondent No.3 (Deputy Medical Commissioner, Tarn Taran), instructed the petitioner not to supply food at the de-addiction centre. He submits that action of respondent No.3 is apparently arbitrary and unsustainable. For, neither

the petitioner was served with any show cause notice nor afforded any opportunity of hearing before sudden termination of contract between the parties. He submits that malafides are alleged against respondent No.3, as he intended to assign the work to respondent No.5 (M/s Majha Enterprises), for extraneous considerations. The firm which is currently supplying food at the de-addiction centre. Further, without issuance of any tender or advertisement, to enable all the concerned to participate and compete in the process, respondent No.5 has been awarded the contract. In reference to letter/representation dated 04.03.2023 (P-1), it is urged that petitioner, being aggrieved by the action of respondent No.3, had represented to Civil Surgeon, Tarn Taran (respondent No.2), who, strangely, marked the enquiry to respondent No.3 himself. And, vide report dated 06.03.2023 (P-2), submitted by respondent No.3 to respondent No.2, quite obviously, he has justified his position and assignment of work to respondent No.5. Thus, he asserts that the manner in which the contract between the parties has been terminated is illegal, and therefore, the official respondents be directed to restore the status of petitioner.

3) We have heard learned counsel for the petitioner and perused the records.

4) Even if we assume the facts set out in the petition to be correct, yet the question would be, if, in the given circumstances, the petitioner could be granted the relief prayed for in the present proceedings. Concededly, no written contract was entered into between the parties. The petition is bereft of bare minimum details as regards the terms and conditions, subject to which the petitioner was asked to supply food at de-addiction centre, Tarn Taran. Faced with the situation, learned counsel for the petitioner sought to urge that it was pursuant to an oral contract, the petitioner had been supplying food at de-addiction centre. But neither there is any averment in the petition in this regard,

nor the requisite material is appended therewith, to draw any such inference that there ever existed any oral agreement between the parties. In the given circumstances, at best, what could be said is; the petitioner was asked to supply food at the de-addiction centre, and later, was instructed to stop supplying the food w.e.f. March 02, 2023. Thus, when confronted, as to how, in the absence of any conclusive and binding contract between the parties, a Mandamus could be prayed for, requiring the official respondents to restore the position of the petitioner, learned counsel failed to refer to anything or cite any decision to substantiate this position. Nothing is indicated in the petition to show if any legally enforceable right of the petitioner was violated. Upon being pointedly asked, learned counsel fairly concedes that it was not pursuant to any tendering process, quotation or advertisement, the petitioner was assigned work to supply food. Nothing is indicated, as to how and at whose behest, the petitioner was able to cater for the patients admitted at the de-addiction centre for all these years.

5) Although, we refrain from justifying/commenting upon assignment of work to respondent No.5 in these proceedings, but the factual position, as narrated in the report dated 06.03.2023 (*ibid*), would be of some relevance:-

“With respect to the above said subject it is written to you the lease of canteen Civil Hospital Tarn Taran for the year 2022 was done for Rs. 4,96,800/-, in the year 2023 civil Hospital has given advertisement in various news papers and tender has been published for opening total 13 tenders and the team which has been constituted by civil Hospital under the leadership of SMO Dr. Swaranjit Dhawan awarded the tender to highest bidder Sukhdev Singh Majha enterprises for 8,10,000/ and then the tender of Civil Hospital canteen has been awarded to above said party for past some time the food was being supplied from civil Hospital canteen to Jacha Bacha ward and for the patients de-addiction centre. In the year 2023 after the new lease of the canteen, a letter has been issued by SMO Civil Hospital for

providing food to the patients of Jacha Bacha centre from January 02, it is relevant to point out here that complainant Simranjit Kaur resident of Gali Teja Singh Wali Tarn Taran do not have the lease of canteen of civil hospital on her name and the present lease holder has given letter that he would provide clean and timely food, after the perusal of the same it has been found out that in light of the health of the patients the food is being got prepared from house and it can spoil the health of patients and in light of the welfare of the patients a correct decision has been taken to send the food from the canteen of civil hospital. It is not appropriate by the complainant to allege corruption charges against the undersign Complainant has misguided you and the false complaint which complainant has given against undersigned is baseless. Complainant in her complaint has concealed that the lease of civil hospital canteen is not with them as in 2022 after minutely doing the enquiry, it has been found out that complainant was preparing the food in her house and was providing it to de-addiction centre, it is not appropriate and it is against the welfare of the patients. It is also appropriate to point out that the manner in which clean and timely food is being provided from the canteen of Civil Hospital to the patients of Jacha Bacha ward, similarly the food is being served to the patients of de-addiction centre from March 02. The allegations leveled by complainant are totally baseless and as per rules to food has been given in the same manner from March 02, as during the past. This is for your information.”

- 6) Apparently, pursuant to a tendering process, the contract for canteen in Civil Hospital, Tarn Taran, for the year 2023, was assigned to respondent No.5. The said firm, for some time, had been supplying food from the hospital canteen to Jacha Bacha ward and to the patients at de-addiction centre. Further, after the hospital canteen was leased out to respondent No.5, a letter was issued by SMO, Civil Hospital, for providing food even to the patients of Jacha Bacha ward from January 02, 2023. Accordingly, the lessee (respondent No.5), had furnished a letter, assuring the authorities that it would

provide clean and timely food to the patients of Jacha Bacha ward, as also at the de-addiction centre, Tarn Taran. On the contrary, the petitioner did not have any lease to run the canteen of Civil Hospital and, rather, had been preparing the food in her house and supplying it to the de-addiction centre. Therefore, considering the welfare of the patients and to avert any possible risk to their health, the petitioner was instructed not to supply the food, any more.

7) Nothing is averred in the petition as to the status of the complaint made by the petitioner to respondent No.2, post submission of the report dated 06.03.2023 by respondent No.3. Further, the case set out by the petitioner itself, in paragraph 5 of the petition, is that as regards the subject work, the right, power and authority to award tender/contract lies with respondent No.4 (Senior Medical Officer, Civil Hospital, Tarn Taran), and thus, respondent No.3 has no jurisdiction to intervene in the tender allotment process. But again, the petition sans any information if the petitioner ever approached or represented to respondent No.4, for redressal of its grievance.

8) In the wake of the position sketched out above, we are dissuaded to interfere and invoke the extra-ordinary jurisdiction under Article 226 of the Constitution. Thus, the petition, being bereft of merit, is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

19.04.2023
AK Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No