

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

CWP-7100-2023 (O&M)
Date of decision:- 13.04.2023

PIMS Medical and Education Charitable Society

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

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

Present: Mr. Puneet Bali, Senior Advocate,
with Mr. Sahil Chandra, Advocate,
Mr. Arora Vishwas Kumar, Advocate,
for the petitioner.

Mr. Arjun Sheoran, Deputy Advocate General, Punjab.

Mr. Akshay Bhan, Senior Advocate,
with Mr. Nippun Sharma, Advocate,
for respondent No. 3.

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RAVI SHANKER JHA, C.J. (ORAL)

This writ petition has been filed by the petitioner assailing the notice of termination dated 17.03.2023 (Annexure P-2) by which the respondent-authorities had terminated the concession agreement dated 28.08.2009 (Annexure P-1) entered into between them for the purposes of developing, financing, up-gradation, implementation, installation of equipments/services, running and management of a Medical College with minimum 100 MBBS admissions and a 500 bedded teaching/general hospital at Jalandhar.

When the matter came up before this Court on 12.04.2023, the following order was passed:-

“In this writ petition, the petitioner has assailed notice of termination dated 17.03.2023 (Annexure P-2) issued by respondent No. 2.

Learned senior counsel, appearing for the petitioner, submits that they have already offered a settlement under clause 27.2 of the concession agreement for which a Steering Committee of the Punjab Institute of Medical Sciences (PIMS), Jalandhar has been constituted, but instead of taking any decision on the petitioner's proposal, the respondent-authorities have issued the impugned termination notice.

At this stage, learned senior counsel for the petitioner, on instructions, submits that they are willing to pay ₹ 6.5 crores today itself, if so required, and another sum of ₹ 10 crores within a period of one month and thereafter rest of the amount due in a deferred manner or in installments without prejudice to any other right that may be accrued to the petitioner in case the authorities concerned are willing to consider and take a decision on the petitioner's proposal through the Steering Committee.

In view of the statement made by learned senior counsel for the petitioner before this Court to the effect that they are willing to settle the matter without prejudice to their right, learned State counsel prays for and is granted time to seek instructions.

As prayed, adjourned to 13.04.2023.”

Learned senior counsel for the petitioner submits that to show their bonafides, the petitioner has already deposited a sum of Rs. 6.87 crores yesterday itself and also undertakes to deposit a further sum of Rs. 10 crores within a period of one month.

Mr. Arjun Sheoran, learned Deputy Advocate General, Punjab, submits that his instructions are that the respondent-authorities have already tried their level best to come to a settlement with the petitioner, but to no avail, and, thus, they have issued the notice of termination. He, however, has failed to point out anything on record. Nor has he made a statement before this Court, on instructions, as to whether the settlement proceedings initiated by the authorities have been taken to a logical conclusion or not or whether the statement of learned senior counsel for the petitioner to the effect that the authorities had in fact not convened a meeting or taken a decision on the agenda note and had in fact cancelled the meeting and directly issued the notice of termination is factually incorrect.

In the circumstances, when confronted with this aspect, learned State counsel has taken this Court through Article 27 of the contract, specifically, clauses 27.1, 27.2 and 27.3 which provides for a dispute resolution mechanism and has submitted that since no decision could be taken in the settlement proceedings initiated by them, the petitioners may invoke arbitration clause 27.3 which is contained in the contract. It is informed that the termination notice is going to come into operation with effect from 16.04.2023.

At this stage, learned senior counsel for the petitioner submits that they are willing to revise their offer of re-payment and submit it to the respondent-authorities today itself or latest by 10.00 AM tomorrow. He further submits that the respondent-authorities may be directed to consider and take a decision thereon on or before 16.04.2023. He further submits that the

concerned parties would be willing to have a meeting with the respondent-authorities for the purposes of considering the same.

Learned State counsel submits that in case the petitioner does so, the authorities would be willing to consider the same and take a decision thereon prior to 16.04.2023 and, if so required, they would also hold a meeting with the concerned parties.

In view of the aforesaid statement made by learned counsel for the parties, while we are of the considered opinion that the appropriate remedy for the petitioner is to invoke the arbitration clause, however, as a fresh proposal is sought to be given and a genuine intent to resolve the dispute has been shown, therefore, in case, as stated before this Court, some reasonable and acceptable proposal is submitted by the petitioner by 10.00 A.M. tomorrow, the authorities concerned shall take the same into consideration, hold a meeting with all the stakeholders and take a decision in the matter on or before 16.04.2023 i.e. the date when the termination notice is going to come into operation.

It is made clear that this Court has not expressed any opinion in favour of either of the parties and, therefore, the authorities would be at liberty to examine the matter keeping all facts and facets into consideration, past history, interest of the public at large as well as that of medical students etc. and thereafter take a decision in accordance with law.

The writ petition accordingly stands disposed of.

A copy of this order be furnished to learned State counsel under signatures of the Bench Secretary.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

13.04.2023
Amodh Sharma

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No