

IN THE HIGH COURT OF JUDICATURE AT PATNA
REQUEST CASE No.28 of 2024

Nirwana Netralya, Rep. Through Dr. Arvind Kumar, Male, Aged about 46 years, S/o Shree Wakil Prasad, R/o Ward No.-40 Maa Tarachandi Road, Aathkhambawa, P.S.- Sasaram Town, Dist.- Rohtas, Bihar-821115 having registered office at- Near Sai Baba Mandir, Maa Tarachandi Road, Aathkhambawa, Sasaram, Dist.- Rohtas, Bihar-821115

... .. Petitioner/s

Versus

1. The Bihar Swasthya Suraksha Samiti, At present Secretariat Extension Building, Block-3, Second Floor, Old Secretariat, Patna- 800015, Bihar.
2. MedSave Health Insurance TPA Limited, F-701 A, Lado Sarai, New Delhi- 110030

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Bipin Bihari, Advocate Mr. Ranjit Singh, Advocate
For the Respondent/s	:	Mr.Shantanu Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date : 23-08-2024

The petitioner requests for Arbitration insofar as an agreement executed between the petitioner and the respondents.

The first agreement is dated 26.07.2019 produced as Annexure-1; which has an arbitration clause. An addendum agreement was entered into on 08.01.2020 which replaced the arbitration clause.

2. Learned Counsel for the petitioner submits that the dispute now raised commences from the date of the first agreement and hence the addendum agreement which commences only from 08.01.2020 is not applicable. Arbitration



has to be ordered specially in view of Clause-16.7.7 which is said to have overridden Clause 17 of the original agreement by which it has been agreed that the parties will submit to the exclusive jurisdiction of the Courts having jurisdiction at Patna.

3. Learned Counsel for the respondent, however, submits that Clause 17 was replaced by Clause 16.7 of the addendum agreement.

4. Admittedly, the original agreement had an arbitration clause as per 16.7. However, the said provision was substituted with Clause 16.7 of the original agreement. Substitution as is understood would relate back to the time of the original agreement and Clause 16.7 reads as under:-

“16.7 Resolution of Disputes.

16.7.1 In case of conflict between the provisions of as provided in the Original Agreement and the Addendum; this Addendum shall prevail.

16.7.2 The provisions of this Agreement shall be governed by and construed in accordance with Indian law. In case of any grievances between the parties or the beneficiaries or in respect of the interpretation, conduct or performance of any term of this agreement or with regard to claims the same shall be raised on Online Grievance System (cgrms.pmjay.gov.in) for redressal of her/his grievances. The grievance redressal will be conducted as per guidelines provided by SHA in this respect.

16.7.3 In case of any grievances between the parties or the beneficiaries or in respect of the interpretation, conduct or performance of any term of this agreement or with regard to claims the same shall be referred to the District Grievance Redressal Committee, BSSS for Redressal of her/his



grievances. The grievance redressal will be conducted as per guidelines provided by SHA in this respect.

16.7.4 In case of any grievances between the parties or the beneficiaries or in respect of the interpretation, conduct or performance of any term of this agreement or with regard to claims the same shall be referred to the State Grievance Redressal Committee, BSSS for Redressal of her/his grievances. The grievance redressal will be conducted as per guidelines provided by SHA in this respect.

16.7.5 In case of any dispute between the parties in respect of the interpretation, conduct or performance of any term of this agreement or with regard to claims the same shall be referred to the CEO, BSSS for Mediation if not resolved by SGRC, BSSS.

16.7.6 Each Party hereby irrevocably submits to the Mediation by the Principal Secretary, Health only for the adjudication of any dispute which persists after mediation before the CEO, BSSS of Bihar hereunder or in connection with.

16.7.7 Each Party hereby irrevocably submits to the exclusive jurisdiction of the Courts having jurisdiction over Patna only for the adjudication of any dispute which persists after mediation before Principal Secretary, Government of Bihar hereunder or in connection with.

16.7.8 The rights and obligations of the Parties under, or pursuant to, this Section including Resolution of Dispute, shall be governed by and subject to Indian law.

5. There is no arbitration provided for as per the present clause, agreed to by both the parties. Clause-16.7.7 only is an agreement between the parties that they would submit to the exclusive jurisdiction of the Courts in Patna for adjudication of any dispute which persist after mediation before Principal



Secretary, Government of Bihar, Patna. The petitioner has approached the State Grievance Redressal Committee which has passed an order but not up-to the expectation of the petitioner. A mediation was initiated by the Principal Secretary, Health, who confirmed the order of the State Grievance Redressal Committee. The Mediation has failed, hence the request for Arbitration.

6. Since, there is no arbitration clause in the agreement as it exists now there is no question of the dispute now subsisting being referred for arbitration.

7. In such circumstance the request case is closed however, leaving remedy to the petitioner to approach the appropriate civil forum with just exceptions.

8. The Request Case stands disposed of.

(K. Vinod Chandran, CJ)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.08.2024
Transmission Date	NA

