

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2928 of 2017

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Indraprastha Security Services Pvt. Ltd.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Department of Health, Government of Bihar - through its Principal Secretary
3. Superintendent, Patna Medical College and Hospital, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kashyap, Adv. Mr. Rasika, Adv.
For the Respondent/s	:	Mr. Nagendra Pd.Yadav-SC-23
For the State	:	Ms. Vijya Laxmi Srivastava, AC to Sc-23

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 05-05-2025

1. The Writ petition is filed for the following
reliefs:-

(i) To quash and cancel the decision as contained in Memo No. 11968 dated 15.09.2016 issued under signature of the Superintendent, Patna Medical College & Hospital Patna (respondent No. 3) whereby and whereunder the respondent No. 3 imposed a penalty of 20% from the monthly bill of the petitioner for the services rendered under the agreement dated 21.07.2012



between the respondent No. 3 and the petitioner.

(ii) To quash and cancel the Memo No. 607 dated 18.01.2017 issued under signature of respondent no. 3 whereby and whereunder he has directed for deduction @ 10% from the monthly bill of January, 2017.

(iii) To quash and cancel the Memo No. 1335 dated 08.02.2017 issued under signature of the respondent No. 3 directing deduction of @ 10% from the monthly bill of February, 2017.

(iv) To direct respondent No. 3 to make payment of the entire deducted amount from the monthly bills of the petitioner together with interest @ 18% per annum.

(v) To pass such other order/orders, direction/directions may deem fit and proper in the facts and circumstances of the case.

2. The brief facts culled out from the Writ petition are that the petitioner is a Private Limited Company incorporated under the Companies Act. Patna Medical College and Hospital (PMCH)/ the 3rd



respondent invited tenders for selection of a cleaning agency for the upkeep work of cleaning and maintenance of the toilets, urinals, baths, wash basins, floor area and campus of Patna Medical College & Hospital (PMCH). The petitioner was one of the bidders and was selected. Pursuant to this, the Superintendent of PMCH and the petitioner entered into an agreement dated 21.01.2012. As per the terms of the agreement, the work was initially assigned to the petitioner for a period of one year, but a provision was made for its continuation if the performance was satisfactory.

3. The 3rd respondent issued work order vide Letter No. 1270 dated 24.01.2012 addressed to all agencies, in which the work allotted to the petitioner was also included. The petitioner company rendered services in accordance with the terms of the agreement to the satisfaction of PMCH authorities. However, the 3rd respondent issued a Letter vide Memo No. 2381 dated 16.02.2016, which reveals that based on a news paper report dated 15.02.2016, a spot inspection was conducted by the



respondent No. 3.. Further, the respondent No. 3 called upon the petitioner to show cause as to why 20% of the monthly bill for February, 2016 shall not be deducted (Annexure-3). In response, the petitioner submitted a detailed reply vide its Letter reference No. 1545 of 2016 dated 19.02.2016, denying all allegations and also submitted that bio-medical waste was left at certain places by public and nurses of the hospital and that they do not take trouble to put the bio-medical wastes in the dustbins provided at the prescribed places.

4. Further, the petitioner received an Office Order contained in Memo No. 11968 dated 15.09.2016, where there was a specific direction to deduct 20% from the monthly bill of February 2016 by way of penalty.

5. It is specific contention of the Learned counsel for the petitioner that the deduction of 20% of the amount is illegal and the respondent cannot go beyond the terms of agreement executed between them. As per agreement (Annexure-2) and the work order, the maximum amount that can be



deducted in case sanitation system is not maintained properly would be a fine of Rs. 5,000/- to Rs. 10,000/- only and no specific percentage of deduction was mentioned in agreement.

6. It is also contended by the Learned counsel for the petitioner that principles of natural justice were violated in the case, as the impugned orders of deduction were passed by the respondent without issuing any notice. Therefore, prayed to allow the Writ petition by quashing the impugned orders.

7. A detailed counter affidavit was filed by the 3rd respondent admitting about the agreement which was executed between 3rd respondent and the petitioner.

8. The counter affidavit further disclose that there is absolutely no illegality in the impugned order dated 15.09.2016, as it was passed after issuing several notices to the petitioner regarding unsatisfactory work of the petitioner agency.

9. It is further contended by the Learned counsel for the respondent that several complaints



were received against the petitioner, against poor services. Subsequently, a spot inspection was conducted by the Superintendent of Patna Medical College Hospital (PMCH), Patna and during the inspection, many deficiencies were detected. It is also submitted that daily newspaper "DB Star" dated 16.02.2016 was published an article which clearly displayed that bio-waste was found scattered in the office area of Superintendent, PMCH, Patna and also in front of emergency ward as well as near Hathua ward.

10. Upon spot inspection, the Superintendent of PMCH, Patna found this to be true and, thereafter issued Memo No. 2381 dated 16.02.2016, directing the service provider to submit an explanation within 24 hours and in default why the allotted work should not be cancelled.

11. The counter affidavit further disclose that Superintendent, PMCH, Patna vide Memo No. 607 dated 18.01.2017, Memo No. 1335 dated 08.03.2017 (Annexure 6 & 7) respectively sought an explanation twice from the petitioner agency, for non-compliance



with the terms and conditions of the agreement, pursuant to it, the impugned order was passed.

12. It is also contention of the Learned counsel for the respondent that in the agreement it is specifically mentioned that “in the case of the work executed is not to the satisfaction of PMCH, Deputy Superintendent PMCH, shall issue a show cause notice to the 2nd party to comply conditions as mentioned in the agreement, in case of non-compliance, the 1st party may terminate the agreement and also can forfeit any amount to 2nd party.”

13. Heard the Learned counsel for the petitioner as well as the Learned counsel for the respondents. Perused the record.

14. On perusal of the record, i.e. Annexure-2, it is evident that there is a specific clause which reads as follows: “In case the sanitation system is not maintained properly, a fine of Rs. 5,000/- to Rs/- 10,000/- can be imposed by the undersigned”.

15. On perusal of the entire agreement, it is evident that the maximum fine amount which can be



imposed against the petitioner is Rs. 5,000/- to 10,000/-. Admittedly, without issuing any notices, the deductions were made as per the impugned order. Therefore, this Court is of the considerable view that the principles of natural justice were violated and the respondent high-handedly deducted 10% and 20% of the amount from the petitioner which is illegal and arbitrary. In view of the above discussion, the impugned order dated 15.09.2016 is hereby quashed.

16. In result, the Writ petition is allowed.

(G. Anupama Chakravarthy, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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