

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 5202 OF 2024

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Eskag Sanjeevani Pvt. Ltd.

... Petitioner

V/s.

State of Maharashtra through Secretary
for Ministry of Health and Family Welfare and Ors.

... Respondents

Mr. Maruti P. Mhavarkar for the Petitioner

Ms. P.H. Kantharia, Govt. Pleader with Mr. Amar Mishra, AGP for Respondent
Nos. 1 to 5

**CORAM : ALOK ARADHE, CJ. AND
SANDEEP V. MARNE, J.**

DATE : 17 JUNE 2025

Order (Per Chief Justice) :

1. Petitioner is a Company which is engaged in the business of providing hemodialysis services.

2. In this Petition, the Petitioner has assailed the validity of the order dated 14th October 2024, by which the work order issued in favour of the Petitioner has been cancelled.

3. Facts giving rise to filing of this Petition in nut shell are that on 8th May 2023, the Respondents floated E-Tender for appointment of service provider for providing hemodialysis services in 50 and above bedded

hospitals under the Commissionerate of Health Services, Maharashtra. In response to the notice inviting tender, the Petitioner submitted its bid. The Respondents, thereupon, by a communication dated 24th November 2023, informed that the contract has been awarded to the Petitioner. The Petitioner, thereupon, submitted a performance guarantee on 8th December 2023. A draft Memorandum of Understanding (for short **MoU**) was sent on 25th January 2024 to the Petitioner. However, the Petitioner did not sign the draft MoU. Thereupon, a show cause notice dated 20th February 2024 was issued to the Petitioner for not performing its obligations under the contract. The Petitioner did not submit any reply to the aforesaid show cause notice. Therefore, by an order dated 14th October 2024, the Joint Director, Health Services, cancelled the work order issued in favour of the Petitioner on the ground that the Petitioner has failed to perform its part of the contract. In the aforesaid factual background, this Petition has been filed.

4. The learned Counsel for the Petitioner submits that the action of the Respondents in issuing the impugned communication is arbitrary, capricious and whimsical and the directions be issued to the Respondents to sign the MoU. On the other hand, the learned Govt. Pleader has supported the action taken by the Respondents.

5. We have considered the rival submissions made by both the sides and have perused the record.

6. In the instant Writ Petition, the Petitioner was appointed as service provider for providing hemodialysis services in 50 and above bedded hospitals under the Commissionerate of Health Services. The Petitioner did not take steps to sign the MoU. Thereupon, a show cause notice dated 20th February 2024 was issued to the Petitioner. The Petitioner did not submit any reply to the aforesaid show cause notice. It is also pertinent to mention here that the fact of issue of show cause notice was not mentioned in the Writ Petition. Thus, the Petitioner is guilty of suppression of material facts.

7. The Petitioner did not sign the MoU and did not commence the work of providing the hemodialysis services in the hospitals. Thereupon, the work order issued in favour of the Petitioner has been cancelled. The action against the Petitioner has been taken in consonance with the terms and conditions of the tender which, by no stretch of imagination, can be termed as arbitrary or unfair.

8. In view of preceding analysis, we do not find any merit in the Petition. The same fails and is hereby dismissed.

(SANDEEP V. MARNE, J.)

(CHIEF JUSTICE)