

GAHC010062952026



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/93/2026

THE MEDICAL SUPERINTENDENT, EMPLOYEES STATE INSURANCE
CORPORATION MODEL HOSPITAL AND ANR
BELTOLA, PEER AZAN FAKIR ROAD, NEAR KHANAPARA KENDRIYA
BIDYALAYA, GUWAHATI-781022

2: THE EMPLOYEES STATE INSURANCE CORPORATION
REGIONAL OFFICE
BAMUNIMAIDAM
GUWAHATI-78102

VERSUS

DHANJIT SARMA AND 2 ORS.
PROPRIETOR OF ARROW MEDICAL SOLUTIONS, S/O LATE BIPIN CH,
SARMA, R/O HOUSE NO. 40, ANANDA NAGAR PATH, SIXMILE, P.S.-
DISPUR, P.O.- KHANAPRA, GUWAHATI-781022, DIST- KAMRUP (M), ASSAM

2:THE BPL MEDICAL TECHNOLOGIES PRIVATE LIMITED
11TH KM, BANNERGHATTA ROAD
ARAKERE, BENGALURU
KARNATAKA-560076

3:THE UNION OF INDIA
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT, NEW DELH

For the appellant/petitioner(s) : Mrs. A. Bhattachary, Advocate
Mr. P. Kalita, Advocate

For the Respondent(s) : Mr. B. K. Das, Advocate
Ms. A. Gayan, CGC
Mr. A. Saikia, Advocate

- B E F O R E -

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

01.04.2026

(AshutoshKumar, CJ)

We have heard Mrs. A. Bhattacharyya, learned Advocate for the appellants, and Mr. B. K. Das, learned Advocate for the respondents.

The Medical Superintendent of the Employees' State Insurance Corporation (ESIC) Model Hospital, Guwahati, and others have preferred this appeal against the judgment and order dated 06.03.2026, passed by a learned Single Judge of this Court directing for release of full payment to the respondent against supply of an X-ray machine, despite the fact that a defective machine was supplied by the respondent.

The appellants/hospital had floated a tender for purchase of a C-ARM Fluoroscope X-ray machine, used in orthopaedic surgeries, with 2 years warranty and 5 years comprehensive maintenance. The respondent No. 1, who is the proprietor of Arrow Medical Solutions, a firm dealing with supply of medical equipments, was awarded the contract on 13.05.2021 for Rs. 32,25,000/-. The machine in question was installed on 20.07.2021 and a Consignee's receipt-cum-acceptance certificate (CRAC) also was issued on 21.08.2021.

The contention of the appellants is that the from the first day of the installation of the machine in the hospital, it started malfunctioning. There were serious technical problems like delayed image generation, the images becoming extraordinarily white, mechanical movements even

when locked, etc. In fact, the video connector also was defective.

The appellants made complaints to the respondents/ supplier as also to the manufacturer, namely, BPL Medical Technologies Pvt. Ltd., Bengaluru.

It appears from the records that joint inspections were also carried out, where the defects were confirmed. However, despite repeated requests made by the appellants and the assurances given by the respondents, neither the supplier nor the manufacturer made any attempt to replace/repair the machine, even though it was still under warranty. In such circumstances, the appellant hospital refused to release the full payment, treating the machine as defective and non-functional.

The supplier preferred the writ petition claiming that the Consignee's receipt/acceptance certificate was the conclusive proof of the supply and, therefore, the payment must be released.

This argument advanced on behalf of the writ petitioners/respondents appears to have been accepted by the learned Single Judge in issuing the direction to the appellants to release the payment.

The learned counsel for the appellants submits that the learned Single Judge completely overlooked the additional terms and conditions of the contract with respect to the installation, testing and commissioning of the machine; training, statutory clearances, functional service centre certificate, etc. It is submitted that the proven defects were completely ignored and the Consignee's certificate was taken as a proof of the supply, entitling the supplier for the full payment.

The submission on behalf of the appellants is that the judgment impugned also reflects complete apathy to the public money involved. The machine is still not working properly and consequently a large number of patients are being referred to other tied-up hospitals at an extra cost incurred to the State exchequer. Apart from that, it has also been pointed out that there is an arbitration clause in the contract, which the supplier/respondent has not invoked.

Mr. B. K. Das, learned Advocate has appeared on behalf of the respondents/supplier, who submits that he shall take instructions as to by what time the machine shall be made defect-free. He seeks some time to get back to this Court with instructions on this aspect of the matter.

Let a clear stand of the respondents/supplier be put on affidavit by the next date.

Re-notify on **26.06.2026**.

In the meanwhile, the operation of the impugned judgment shall remain in abeyance.

JUDGE

CHIEF JUSTICE

Comparing Assistant