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ITEM NO.50

COURT NO.6

SECTION PIL

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A.No(s).525-526 in WRIT PETITION (CIVIL) NO(s). 13381 OF 1984

M.C. MEHTA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For Directions)

Date: 03/03/2014 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE C. NAGAPPAN

For Petitioner(s) Mr. P.S.Narasimha, Sr. Adv. (A.C.)

Mr. M.C.Mehta, In-person

For Respondent(s) Mr. Vijay Panjwani, Adv.

Mr. A.D.N.Rao, Adv.

Ms. Madhurima Mirdul, Adv.

Ms. Saroj Bala, Adv.

Mr. S.N.Terdol, Adv.

Mr. S.Udaya Kumar Sagar, Adv.

Ms. Bina Madhavan, Adv.

Ms. Praseena E.Joseph, Adv.

Mr. Shivendra Singh, Adv.

Mr. Rahul Pandey, Adv.

Ms. Aksanksha Mehra, Adv.

Mr. Javendur Rahman, Adv.

For M/s. Lawyer's Knit & Co.

Mr. Nikhil Goel, Adv.

Mr. Ajay Kumar Chopra, Adv.

Mr. Marsook Bafaki, Adv.

Mr. Rajiv Yadav, Adv.

Mr. Ajit Sharma, Adv.

Mr. Abhishek Chauhary, Adv.

Mr. Pradeep Misra, Adv.

Mr. Suraj Singh, Adv.

Mr. Vijay Panjwani, Adv.

UPON hearing counsel the Court made the following
O R D E R

I.A. No. 525 has been filed by the Indian Oil Corporation for a direction of this Court to identify a suitable Agency for the smooth managing the affairs of Swarn Jayanti Samudaik Hospital (SJSH) on contract basis and for a direction to M/s.NIRPHAD to continue with the present arrangement for a period of one more year. I.A. No. 526 of 2013 is on the other hand filed by M/s. NIRPHAD seeking a direction from this Court regarding certain additional facilities and assistance from the IOC failing which for being relieved from the duties of managing the hospital w.e.f. December, 2013.

When these applications came up before us on 24.02.2014, Ms. Bina Madhavan learned counsel for IOC submitted that the IOC had constituted a Committee to identify a suitable agency to take over the management and maintenance of the hospital in question. She stated that the Committee had identified three agencies found suitable for the future management of the institution. She prayed for three months' time to enable IOC to pass formal orders of handing over the hospital to the newly selected agency. Since the statement made at the Bar was not supported by an undertaking from the IOC that the needful shall be done by it within three months, we had granted time to Ms. Madhavan to file an affidavit stating that formal orders for handing over the hospital to the newly selected agency shall be passed within three months. Ms. Madhavan has accordingly filed an affidavit sworn by Mr. Dinesh Kumar Rakesh General Manager(HR) of the IOC.

A reading of the affidavit aforementioned shows that the Corporation has indeed short listed three agencies one of whom is likely to be entrusted with the future management of the hospital in question. The affidavit also states that formal orders regarding the handing over of the hospital to the newly selected agency shall be passed within three months.

Learned counsel for M/s. NIRPHAD submits that in the light of the subsequent development referred to above M/s.NIRPHAD is no longer interested in continuing with the management of the hospital in question. He urged that certain adverse observations made in the rejoinder affidavit filed by IOC regarding the working of M/s.NIRPHAD deserve to be expunged as there is no real basis for making those observations. In particular he drew our attention to the following observations in para 10 of the rejoinder affidavit:-

"On the other hand, the mismanagement of the SJS hospital by NIRPHAD is reflected in the detailed copy of the draft minuted of the External Monitoring Committee meeting held on 27.07.2013 as well as the review took place on 02.08.2013.

This Hon'ble Court should take into consideration the fact IOCL has done everything for the smooth running of the SHS hospital, as reflected in the draft minuted of the External Monitoring Committee meeting, but on the other hand serious mismanagement of the hospital is being perpetuated at the hands of NIRPHAD."

Ms. Madhavan submits that the above observations should not be taken as a reflection on the working of M/s. NIRPHAD as the same had been made on the basis of certain observations made by the External Monitoring Committee in the minutes of the meeting held on 27.07.2013

Mr. P.S.Narasimha, Chairman of the External Monitoring Committee clarified that the observations made were never meant to cast any blemish on M/s. NIRPHAD.

In the circumstances, therefore, we grant three months to the IOC to pass appropriate orders for a formal handing over of the management of the hospital to the newly selected agency and to complete the handing over process within that period. M/s.NIRPHAD shall continue to manage the hospital till 31.05.2014 on the existing terms and conditions. Dues payable to M/s. NIRPHAD up to the said date shall be released in favour of M/s.NIRPHAD strictly in accordance with the terms of the contract

as revised from time to time.

The adverse observations made in the rejoinder affidavit of
IOC extracted in the body of this order shall stand expunged.

IAAs are disposed of.

|(Shashi Sareen)
| Court Master

| (Veena Khera) |
| Court Master |