

(2021) 07 TEL CK 0065
In the Telangana High Court
Case No : Writ Appeal No. 290 Of 2021

Haseeb Pharmaceuticals Private Limited	APPELLANT
Vs	
Telangana State Medical Services And Infrastructure Development Corporation And Another	RESPONDENT

Date of Decision : 13-07-2021

Acts Referred:

Citation : (2021) 07 TEL CK 0065

Hon'ble Judges : Hima Kohli, CJ;B. Vijaysen Reddy, J

Bench : Division Bench

Advocate : Rohan Aloor

Final Decision : Disposed Of

Judgement

1. The appellant/writ petitioner is aggrieved by the order dated 20.04.2021, passed in W.P.No.2135 of 2020, filed by it for declaring the notice to show cause dated 21.06.2017, issued by the respondent No.1 as arbitrary and unreasonable and further, to direct the respondent authorities to release the payment of a sum of Rs.4,36,18,455/- in its favour for the products supplied and consumed by the respondents.

2. By the impugned order, the learned Single Judge has dismissed the writ petition by noticing that there is an arbitration clause provided in the contract governing the parties and that the appellant/writ petitioner ought to have invoked the same in the event of any dispute with the respondents.

The court has also observed that there are disputed question of facts raised in the writ petition that ought not to be entertained by exercising judicial review.

3. On a perusal of the averments made by the appellant/writ petitioner in the

writ petition, it transpires that a notice to show cause dated 21.06.2017 was issued by the respondent No.1 to the appellant/writ petitioner stating inter alia that it had supplied some IV Fluids to the respondents, which had resulted in 13 patients losing their vision which was attributed to the usage of the contaminated IV Fluids. It is stated that the said IV Fluids were tested by the Drug Control Authorities and found to be not of a standard quality. As a result, all the products supplied by the appellant/writ petitioner were recalled and the appellant/writ petitioner was called upon to offer its explanation.

4. It is not in dispute that vide reply dated 24.06.2017, the appellant/writ petitioner had duly replied to the notice to show cause and an order was passed on the said reply. But, for reasons best known to the appellant/writ petitioner, it did not take any steps to approach the court for relief from June, 2017 till the writ petition was finally filed on 20.01.2020. The explanation sought to be offered by learned counsel for the appellant/writ petitioner for the inaction is that negotiations were on between the parties in all this duration. But we find that there is not a whisper about the purported negotiations in the writ petition. In our opinion, the writ petition as filed by the appellant/writ petitioner itself was highly belated.

5. Be that as it may, we have enquired from Mr. P.Kishore Rao, learned counsel for the respondents to inform us of the fate of the show cause notice dated 21.06.2017, issued to the appellant/writ petitioner, only to be told that the Department is still awaiting reports from the Central Drug Laboratory. That is a subsequent event. The respondents could not have waited such a long time to take a decision on the notice to show cause issued to the appellant/writ petitioner. Learned counsel for the respondents states that the Department shall take a decision on the notice to show cause, if granted some time.

6. The respondents are directed to decide the notice to show cause dated 21.06.2017 on the basis of the reply dated 24.06.2017, furnished by the appellant/writ petitioner, within three weeks from today, under written intimation to it. If the appellant/writ petitioner is aggrieved by the decision taken, it shall be entitled to seek appropriate legal recourse.

7. The present appeal is disposed of along with the pending applications, if any.