

RADIA'S NAYATI HEALTHCARE BEFORE NCLT, NEW DELHI:

In an interesting turn of events, National Company Law Tribunal, New Delhi (NCLT) has passed an interim order against the majority shareholder of the company called Nayati Healthcare & Research NCR Pvt Ltd which is under the effective control of Ms. Niira Radia and her affiliates.

Dr Rajeev Kumar Sharma who is a leading orthopaedic surgeon in India has knocked the doors of NCLT against the acts of gross mismanagement, siphoning off and fraudulent dealings with the funds of Nayati Healthcare NCR in the hands of majority shareholder and nominee Directors including Ms Niira Radia. Nayati Healthcare NCR has under its purview two hospitals, one being Gurgaon Hospital (under construction) and the other being Vimhans Hospital in New Delhi.

Back in April 2018, Ms Niira Radia through her Company, Naarayani Investment Pvt Ltd, acquired 51% shares in Nayati Healthcare NCR. During that time, Dr Sharma's shareholding was 49%. The acquisition was announced on newspapers and social media, signaling the entry of Niira Radia's healthcare venture in NCR. The major asset of the company is Gurgaon Hospital, which was under construction, for which YES Bank disbursed Rs 312.50 Crores and further Rs 331.73 Crores was invested by Naarayani Investment. By October 2019, YES Bank stopped disbursing any funds. Dr Sharma, through board meetings, email, and verbal communication kept asking for status of completion of Gurgaon Hospital and utilization of funds. Instead, he was threatened with legal action, deprived of his rights as a Director to inspect Company's books, and denied his salary for work he did as a surgeon for the last 1 year.

Naarayani Investment issued multiple Zero Coupon Fully Convertible Debentures (ZFCD) and converted the same for equity shares in Nayati Healthcare NCR. Simultaneously, Ms Radia kept siphoning off these funds. Consequently, Dr Sharma's shareholding was illegally reduced to 6.3% in the company he founded.

Even after a total investment of Rs. 644.23 Crores into the Company, the Gurgaon Hospital is in a more dilapidated state than it was in 2018 before Ms Radia came into the picture (see below). Instead, this money was siphoned by entities related to Ms Niira Radia, including but not limited to Ahluwalia Construction, Biosurge Devices, Rajesh Industrial Projects Pvt Ltd, Sanyog Enterprises Pvt Ltd, Ruchi Medical Pvt Ltd, and Nayati Medical Pvt Ltd. Majority of siphoning of funds was carried out through Ahluwalia Construction, which is a *benami company* of Ms Radia, having the same name as Ahluwalia Construction Group. Ahluwalia Construction Group, one of the most reputed names in construction, has no affiliation with this so called company bearing its name. Further, a trail of Rs. 119.15 Crores reaching Ms Niira Radia shows the brazen loot carried out by her and her associates. *An FIR was registered on 04.11.2020, by the Economic Offences Wing of Delhi Police on the same matter under sections 409, 420, 467, 468, 471 and 120B of the Indian Penal Code, 1860, which is under investigation.*

Dr. Sharma has presented the photographs of Gurgaon Hospital (before and after Ms Radia came into the picture), details of bank statements of Nayati Healthcare NCR, Ahluwalia Construction, details of the transactions with fictitious accounts owned by Ms Radia, charts reflecting the siphoning off and diversion of funds as well as fraudulent/fictitious invoices and work orders forming part of the reports submitted to YES Bank to avail loans before NCLT, New Delhi in support of his claims.

Dr. Sharma has approached NCLT, New Delhi for restoration of his shareholding in Nayati Healthcare NCR and stopping Ms Radia from selling off the assets of Nayati Healthcare NCR to a third party. In effect, after looting company funds and bank loans, Ms Radia is attempting to illegally gain further.

Keeping in view the above and satisfied with the pleadings of the petitioner, the Hon'ble Bench of Honorable Member (Judicial) Shri PSN Prasad and Honorable Member (Technical) Dr VK Subburaj, (a) ordered that petitioner is entitled for a status of quo on shareholding of the Nayati Healthcare and Research NCR Pvt Ltd; (b) orally granted liberty to petitioner (Dr Sharma) to approach the Hon'ble NCLT in the event any third party rights are created by the Respondents or the assets are sold; (c) granted 4 (four) weeks' time to all 16 Respondents to file their Replies; and (d) listed the matter for hearing on 26.04.2021.

"Gurgaon Hospital : Before Partnership with Ms Niira Radia (Picture taken on 10 Feb 2018)"



"Gurgaon Hospital : After Partnership with Ms Niira Radia (Picture taken on 14 May 2020)"