

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14819 of 2015

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Maya Singh w/o Shri Uday Prasad, r/o Village Bhairaw Ashtan Godabari
Road, Gaya, P.O. Chandchaura, P.S. Rampur,
District Gaya.

.... Petitioner/s

Versus

- 1.The State of Bihar through Director in Chief Health Services, Govt. of Bihar, Patna.
- 2.The District Magistrate, Gaya, District Gaya.
- 3.The Civil Surgeon Cum Chief Medical Officer, Gaya, District Gaya.
- 4.Additional Chief Medical Officer, Gaya, District Gaya.
- 5.The In-charge Primary Health Centre, Nagar Prakhand, Gaya District Gaya.
- 6.The In-charge Medical Officer, Primary Health Centre, Konch, Gaya District Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Adv, Mr. Deepak
Kumar, Adv & Mr. Dhananjay Kumar
Gupta, Adv

For the Respondent/s : Mr. Sanjeev Kumar AC to SC-I

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 17-09-2015 Heard learned counsel for the parties as with

regard to the following relief prayed in this writ

application:-

"That this writ application is being filed
for issuance of the nature of certiorari of
quashing the memo no. 3485 dated 12.12.2014
issued by the Civil Surgeon cum Chief Medical
Officer, Gaya by which awarded punishment
against petitioner as censure and stoppage of the
one increment without cumulative effect without
due enauiry of the matter as alleged of charge



that the petitioner was absent in her duty on 21.09.2011 (only one days), whenever she was under duty as submitted in show cause dated 14.02.2012 as evidence, soon after order of suspension and further quashing the enquiry report bearing memo no. 196 dated 09.10.2014 alleged to be submitted enquiry report by Additional Chief Medical Officer, Gaya, by which reported on the alleged date, petitioner was absent without due enquiry report of asking show cause to petitioner and further give other legal consequential benefit attach to the post."

Having regard to the fact that the petitioner is aggrieved by an order of minor punishment passed by the Civil Surgeon dated 14.12.2014 and there is statutory appeal before the Director-in-Chief of Health Services in terms of Bihar Government Servant (Classification Control and Appeal) Rules 2005, this Court will not be inclined to entertain this writ petitioner, which in fact is not only premature but also not maintainable on account of the petitioner not exhausting statutory alternative remedy as provided in the Rules.

When such an observation has been made, learned counsel for the petitioner seeks permission to withdraw this application in order to enable the petitioner to file an appeal before the Director-in-Chief of Health Services.

That being so, this writ application is permitted to be withdrawn with the aforementioned liberty.

In view of the fact that this writ application was filed under misconceived notion, the appellate authority would be under obligation to dispose of the appeal of the petitioner on merits without non suiting the petitioner on the ground of delay/limitation, if any provided that such appeal is filed within a period of one month from today.

(Mihir Kumar Jha, J)

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