

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19144 of 2010

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1. Dr.Smt.Rajni W/O Dr. Rajendra Prasad Gupta R/O Mohalla- Bajrangpuri, P.O.-
Gulzarbagh, P..S- Alamganj, Distt.- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Commissioner Cum Secretary, Department Of Health, Govt. Of Bihar, Patna
3. Under Secretary, Department Of Health And Family Welfare, Govt. Of Bihar,
Patna
4. Director In Chief, Health Services, Govt. Of Bihar, Patna
5. State Drug Controller, Drug Control Administration, Health Services Govt. Of
Bihar, Patna
6. Dr, Devendra Nath Akela S/O Not Known Presently Transferred At Food And
Drugs Control Laboratory, Agamkuan, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. RASHID IZHAR

For the Respondent/s : Mr. (GP21)

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 23-01-2015

Heard Mr. Izhar for the petitioner and Counsel for the
State. A counter affidavit has been filed on behalf of the respondents.

The petitioner was deputed in the Food and Drugs
Control Laboratory, Agamkuan, Patna as Bacteriologist. She was
transferred therefrom and the respondent no. 6 was posted in her
place. The petitioner is not raising a grievance with respect to her
transfer. In fact, she joined the transferred post.

The grievance raised through this application is that the
Laboratory is manned by the doctors who is/are not educationally

qualified to hold the post of Director since an officer posted as the Bacteriologist would also function as the Incharge Director.

In this connection, an order passed by a Division Bench of this Court in the year 1995 on a Public Interest Litigation vide C.W.J.C. No. 6086 of 1993 was brought to the notice of this Court. In paragraph 14 thereof, this Court directed as under:-

“In these circumstances, this writ petition is disposed of with a direction to the respondent-State of Bihar to take immediate steps, if not already taken for appointment to the post of Joint Food Controller. The appointment should be made within a period of four months from the date of receipt of a copy of this order by respondent no. 1. Similarly, other posts, if lying vacant, such as posts of Public Analyst etc. should also be filled up within the same period. If the post of Joint Food Controller is not filled up within the period of four months from the date of receipt of a copy of this order by respondent no. 1, respondent no. 2 should be relieved of the additional charge of the office of Joint Food Controller. This is on the assumption that the post of Joint Food Controller has not been regularly filled up. Respondent no. 2 has produced evidence in support of his appointment as Deputy Director-cum-Public Analyst. I find that he lawfully holds that office having been duly appointed by the competent appointing authority. No question of issuance of quo warranto arises in this case.”

The aforesaid grievance of the petitioner in a litigation filed primarily against her transfer from the Laboratory in question cannot be appreciated by this Court. However, while disposing of this application, this Court would observe that the order passed by this Court in C.W.J.C. No. 6086 of 1983 operative part/portion of which

extracted hereinabove shall be brought to the notice of respondent no. 2 (Commissioner-cum-Secretary, Department of Health, Government of Bihar, Patna) enabling him to take appropriate decision while making a regular appointment on the post of Director of the Laboratory.

(Kishore Kumar Mandal, J)

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