

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18522 of 2010

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1. Sanjay Mishra,
2. Rajan Mishra
Both sons of Lakshmi Nath Mishra R/O Mohalla- Salimpur Ahra, Road No.-1,
P.S.- Gandhi Maidan, Distt.- Patna.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Finance Department, Bihar,
Old Secretariat, Patna
2. The Principal Secretary Health Department, Bihar, Vikash Bhawan, New
Secretariat, Patna
3. The Additional Secretary Health Department, Bihar, Vikash Bhawan, New
Secretariat, Patna
4. The Director, Indigenous Medicines, Bihar, Vikash Bhawan, New Secretariat,
Patna
5. The Deputy Director, Homeo, Bihar, Vikash Bhawan, New Secretariat, Patna
6. The Bihar State Homeopathic Board, Kadamkuan, Patna Through The Chairman
7. The Registrar, Bihar State Homeopathic Board, Kadamkuan, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. RAJ KISHOR SRIVASTAVA

For the Respondent/s : Mr. (SC6)

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 13-08-2015

Re. I.A. No. 2987 of 2015

The present interlocutory application has been filed for deleting the name of Prem Lata Devi from the records. It appears on the death of the original writ petitioner, the heirs and legal representatives including the widow were substituted. Now, the widow has died. The application is for deleting her name from the array of parties.

Having heard the parties, the same is allowed.

Heard the Counsels for the petitioners, the Respondent nos. 5 and 6 and the State.



The original petitioner served the Bihar State Homeopathic Board constituted under Section 3 of the Bihar Development of Homeopathic System of Medicine Act, 1953 (for short 'the Act') as Clerk and superannuated sometimes in the year 1999. He was facing difficulty in getting the retiral dues/benefits including regular pension. In this background, the present writ petition was filed for a direction upon the respondents to establish a fund called the Homeopathic fund as embodied under Section 37 of the Act.

The respondent State filed counter affidavit wherein a stand is taken that the Board is entitled to payment of grant in aid from the State. The revenue from the internal source is required to be generated by the Board.

Learned Counsel for the Board has submitted that the entire post retiral dues of the original petitioner has been paid. He was also in receipt of pension but irregularly. The matter was taken up between the Board and the Government and now the State Government has agreed in principle to bear the financial liabilities of the Board. It has been stated that the original petitioner shall now be not entitled to payment of Pension/family pension since both the employee and his wife have died. The remaining dues, if any, shall be paid as soon as the fund is made available to the Board. In this connection, he has drawn attention of the Court to Section 38 of the Act wherein the

State Government can pay lump sum amount to meet the requirement of the Board which according to the Counsel for the Board is being paid on regular intervals by the State Government.

Counsel for the State has pointed out with reference to Annexure-A to the counter affidavit that grants in aid has regularly been made available to the Board.

Be that as it may, considering the fact that the original petitioner has been paid the admissible retiral dues on retirement as well as the fact that the respondent Board has agreed to pay the remaining dues of the original petitioner no sooner the fund is made available to it, I am inclined to dispose of the writ application recording the aforesaid stand of the parties.

The writ petition is disposed of.

Before parting with the records, this Court may only observe that the consultation which is stated to have taken place between the State Government and the respondent Board should fructify without further loss of time.

(Kishore Kumar Mandal, J)

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