

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 10117 of 2014

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Shiv Kumar Sao, Son of Late Bisun Sao, resident of Village - Punama, P.S.
Wazirganj, District – Gaya.

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary Govt. of Bihar, Patna.
2. The Secretary Health Department, Bihar, Patna.
3. The Director Health Services, Bihar, Patna.
4. The Commissioner, Magadh Division, Gaya.
5. The Anugrah Narayan Magadh Medical College, Gaya.
6. The Superintendent Anugrah Narayan Magadh Medical College, and Hospital, Gaya.
7. The Registrar, Anugrah Narayan Magadh Medical College, and Hospital, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Devendra Prasad Singh, Advocate
		Mr. Dharendra Kumar Trivedi, Advocate
For the Respondent No. 6	:	Mr. Prabhakar Dwivedi, A.C. to S.C. 5

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 13-12-2016

Heard learned counsel for the parties.

The petitioner has moved the Court for a direction to the Health Department, Government of Bihar to pay compensation on account of the death of his daughter, who allegedly died due to gross negligence in her treatment.

As per the counter affidavit, a three member team was constituted which has given a report that there was no negligence.

Without going into the controversy, *prima facie*, the report of the three member committee, copy of which has been made



Annexure-E to the counter affidavit and which is dated 29.10.2005, clearly indicates that the enquiry was conducted without notice to the petitioner or giving him any opportunity to present his case. Thus, at least, *prima facie*, it appears that the report of the enquiry committee is totally one sided and without having given any opportunity to the complainant i.e., the petitioner, no enquiry committee could have given any report, as the basic principle of natural justice required that the person who has made the complaint which is enquired into, has to be given an opportunity to present his case. Moreover, the two doctors in the three men committee are in some way connected with the hospital concerned which also, at least, raises some doubt with regard to the correctness of the report on the basis of the well known maxim that no person should be judge in his own cause and that fairness should not only be done, but also seem to be done, and in the present case, the same is not reflected from the report dated 10.10.2006.

In view of the aforesaid, the writ application stands disposed off with a direction to the Principal Secretary, Department of Health, Bihar, Patna to constitute a fresh committee of persons who may be unconnected with the working of the hospital in question and who are eminent persons in their field, including doctors, who shall look into the matter and submit a report after



giving due opportunity of hearing to the petitioner. The said exercise be completed within three months from the date of production of a copy of this order before the Principal Secretary, Department of Health, Bihar, Patna. A copy of the report shall be communicated to the petitioner within two weeks of submission of the same. The petitioner thereafter shall have liberty to take appropriate action, based on the report submitted, in accordance with law.

(Ahsanuddin Amanullah, J.)

P. Kumar

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