

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8970 of 2016

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1. In The Matter Of News Report Published In the 'Hindustan Hindi Dainik Patna'
Dated 18th May, 2016.

.... Petitioner/s

Versus

1. The Government of Bihar.
2. The Principal Secretary, Health Govt. of Bihar.
3. Abhay Kr. S/o Krishna Singh,
4. Dheeraj Kr. Singh, S/o Ram Naresh Raj,
5. Rupesh Kr., S/o Vinod Srivastava
6. Rajiv Kr. S/o Kalpnath Pandey, All R/o DH2 PMCH, Patna.

.... Respondent/s

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Appearance :

For Petitioner : Mr. Vikash Chandra Guddu Baba, (in person)
For the Students : Mr. Syed Mohammad Sabbir Alam, Advocate
For the Respondent/s : Mr. Chittranjan Sinha,, PAAG-2
With Mr. Himanshu Kumar Akela, AC to PAAG-2

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

**HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH)**

Date: 09-09-2016

Heard learned counsel for the parties.

1. The present proceeding has been registered in the shape of Public Interest Litigation under Article 226 of the Constitution of India after this Court took *suo motu* notice of news items published in two Hindi dailies, viz, Hindustan and Dainik Jaagaran, dated 18.05.2016 in relation to an occurrence, which had taken place within the premises of Patna Medical College and Hospital (hereinafter referred to as the PMCH) on 15.05.2016.

2. The State of Bihar and its officials after having received notice of the present proceeding have filed their affidavits. Junior Doctors of the PMCH have also intervened and submissions have been advanced on their behalf also.

3. What has emerged from the materials on record of this case and submissions, advanced on behalf of the parties is that on 15.05.2016, at around 7 P.M., with a complain that some one had been drowned in the river Ganges, his body was brought to PMCH for treatment. He was, however, found dead. The attendants of the deceased is said formed a mob, which became uncontrolled and accusing the doctors of the PMCH of negligence on their part, being the reason behind the death of the deceased, created bedlam, indulged in vandalism ravaged the public property and physically assaulted the doctors and the staff on duty. Consequently, the junior Doctors of the Hospital went on strike immediately, thereafter, protesting against want of adequate security provided by the Hospital and District Administration. On the basis of a written report of the Superintendent, PKMCH, addressed to the Officer-in-charge of Pirbahore (Patna) Police Station, to this effect, an FIR i.e. Pirbahore P. S. Case No. 132 of 2016 came to

be registered against the attendants of the deceased.

4. There is counter version to this narration of the occurrence according to which the Doctors and staff of the PMCH had assaulted the attendants of the deceased, who had peacefully complained against negligence on the part of the Doctors of PMCH in not providing prompt treatment to the deceased. On the basis of such allegations, two further FIRs came to be registered as Pribahore P.S. Case No. 133 of 2016 and Pirbahore P. S. Case No. 134 of 2016.

5. Functioning of PMCH came to a virtual stand still after the Doctors went on strike. The patients, admitted in the Hospital, remained almost unattended. Abstention of the doctors from their duties had a chain reaction, which can be easily perceived, particularly, as PMCH is treated to be a premier Medical College and Hospital of the State, which is one of the oldest in the country. Some of the patients, admitted in PMCH reportedly, died, while some patients are said to have died, because they could not avail the emergency facilities in PMCH.

6. The situation prevailing in PMCH, which had serious consequences, compelled this Court to intervene and take judicial notice of the fact, under Article 226 of

the Constitution, of India by way of Public Interest Litigation, has raised four main concerns, viz.,

(i) Immediate restoration of normalcy in functioning of PMCH since, otherwise, situation prevailing there would have had disastrous effect touching the lives, health and welfare of people of the State of Bihar;

(ii) Security of the Doctors and Staff, while on duty in PMCH,

(iii) Behaviour of the Doctors and staff, of PMCH towards the patients and their attendants;

(iv) Steps to insurance that there is no recurrence of such incident in future.

7. Considering the situation prevailing in the Patna Medical College and Hospital, arising out of the said occurrence, this Court had directed the State-Respondents to file their response, whereafter, affidavits have been filed, which are on record. On 29.08.2016, when the matter was last taken by this Court, following order was passed:-

"The counter affidavit, which has been filed by the Superintendent of Police, Patna, indicates that the investigation in Pirbahore P. S. Case No. 132 of 2016, which relates to persons, who are not in the employment or engagement of Patna Medical College and Hospital, has been concluded and charge-sheet has been submitted, whereas Pirbahore P. S. Case Nos. 133 and 134 of 2016, which are against the resident doctors, the investigation is still incomplete.

Why the investigation has remained incomplete, the affidavit, which has been brought

on record, offers no explanation nor is there any explanation discernible from the materials available on record.

In view of the above and in the interest of justice, this case is directed to be listed, on 09.09.2016, and on that day, the Senior Superintendent of Police, and the Principal Secretary, Health Department Government of Bihar, shall appear, in person, and give explanation as to why no action has been initiated so far against the resident doctors if any one of them was involved in causing assault on any of the patients or their companions.

It is also made clear that on the next date of hearing, the Senior Superintendent of Police, and the Principal Secretary, Health Department, Government of Bihar, shall also inform this Court as to what step(s) or what action(s) have been taken by them to ensure that no such recurrence of violence, which forms the basis of the present public interest litigation, takes place."

8. As it came to the notice of this Court that though investigation in Pirbahore P. S. Case No. 132 of 2016 is complete and charge-sheet has been submitted, the investigation in the other two cases, viz, Pirbahore P. S. Case No. 133 and 134 of 2016, which are against the resident doctors, had remained incomplete. Accordingly, the Senior Superintendent of Police, Patna, was directed to explain as to why no action had been initiated with respect to the allegations made against the resident doctors.

9. The Principal Secretary, Department of Health, Government of Bihar, was also asked to be personally present and inform this Court as to what steps or actions had been taken by him in order to ensure that

there was no recurrence of such incidents in future.

10. In compliance of the order, dated 29.08.2016, the Principal Secretary, Department of Health, Government of Bihar, has filed an affidavit stating therein that in order to ensure that in future, there is no recurrence of such incidents and in order to comply with the orders of this Court, the Principal/Superintendent of Medical College and Hospitals of Bihar, by letter, dated 28.07.2016, have been directed to ensure dress code for all the employees working in the respective Colleges and Hospitals. It has also been stated that the Principals and the Superintendents of the Medical College and Hospitals, in the State of Bihar, have been directed to furnish latest factual status report regarding steps taken towards security arrangement.

11. It has been stated, in paragraph 9, in relation to security arrangement, as follows:-

"(a) For overcoming any adverse situation and also for maintaining public tranquility, the Government had already set up a Town Out Post in the premises of PMCH Patna in which one in Charge, 3 ASI, 2 Havildars, 1 PTC & 1 Constable are posted and in addition to, 4 Arms Guard, 6 BMP, 2 BMP Havildars & 1 BMP Guard In Charge are also posted there.

(b) 76 private Security Personnel are discharging their duties in IGCC of P.M. C.H Patna for intense security care.

(c) For further strengthening the security services in the premises of PMCH, the Hospital administration had already floated tender for providing security services, but the tender process could not attain finality due to judicial interim stay order passed in Title Suit No. 154 of

2016 (Sushil Chandra Verma Vs. State of Bihar & others) by learned Sub-Judge-I, Patna.

(d) Only 100 beds are available in the Emergency Unit but, about 350-400 patients alongwith their attendants are regularly visit in the Emergency Unit for treatment and there are always chance to create chaos by the patients/attendants at any time and therefore, the Hospital Administration has constructed one barricading gate for checking it, where the security services are being provided round the clock.

(e) Only two attendants have been allowed to visit the Emergency Unit after security check.

(f) Only two visitors pass are being issued at one time by the hospital administration.

(g) In order to make intense security arrangement, the Senior Superintendent of Police, Patna has been requested vide Memo No. 11455 dated 1.9.2016 thereby requesting him to deploy additional 4-1 Arms Police Force in the premises of P.M.C.H, Patna. At present, 4-1 Arms Force is available and rendering their services effectively, in the premises of PMCH, Patna."

12. On the question of completion of investigation into the cases being Pirbahore P.S. Case No. 133 and 134 of 2016, it has been stated, on behalf of the Senior Superintendent of Police, Patna, that investigation, in Pirbahore P.S. Case No. 134 of 2016, is complete in all respects and final forms will be submitted soon.

13. Learned Principal Additional Advocate General No.2, appearing on behalf of the State of Bihar, has assured this Court that final forms will be submitted in connection with the said case without any further loss of time. With respect to Pirbahore P. S. Case No. 133 of 2016, there is statement that the case has been found to be true

against 9 junior doctors mentioned in paragraph 3 and the charge-sheet is likely to be submitted within a week from today.

14. As regards maintenance of law and order as well as Security within the campus of the PMCH, following statements have been made in paragraph 6 of the supplementary counter affidavit filed on behalf of the respondent:-

"6. That for the purpose of maintenance of law and order, tranquility and stoppage of happening of any untoward incidents at the PMCH Police force has been posted/deputed which are as follows:-

- 1) PMCH T.O.P - 4 Police officer
2 Hawaldar
1- P.T.C
1- Sipahi
- 2) Superintendent - Four Armed Home guard (Residence)
- 3) At Kaidi Ward - 1-4 armed force
- 4) At Emergency- 1-4 Armed force, BMP force, one Police officer, 3 Hawaldar and one Sipahi

In addition to the above regular patrolling is done at the police stations level."

15. It has been pointed out to us that the Superintendent, Patna Medical College and Hospital, has requested the Senior Superintendent of Police, Patna, for providing further security force at the places specified in the communication, dated 07.09.2016, which has been brought on record by way of Annexure-B to the supplementary counter affidavit filed on behalf of the Principal Secretary, Departmental of Health.



16. The Court expects that the Senior Superintendent of Police, Patna, will look into the matter as expressed in the said communication, dated 07.09.2016, and take a definite decision within a fortnight from today, if the same has not already taken into account.

17. Noticing the stand taken on behalf of the Principal Secretary, Department of Health, Government of Bihar, and the Senior Superintendent of Police, Patna, we close this proceeding with a direction that the concerned respondents shall be obliged to strictly adhere to the assurance given to this Court, in their affidavits, as noted above and they shall abide by what has been said, in the said counter affidavits, without any demur.

Reg: I. A. No. 7356 of 2016

18. This application has been filed on behalf of the Senior Superintendent of Police, Patna, seeking exemption from his personal appearance on the ground of his engagement in the programme, because of the visit of the Vice-President of India to Patna.

19. Considering the statements made therein, I. A. No. 7356 of 2016 is allowed. The Senior Superintendent of Police, Patna, is granted exemption from his personal appearance.

Personal appearance of the Principal Secretary, Department of Health, Government of Bihar, Patna, is dispensed with.

20. It has been brought to our notice that because of stay/injunction granted by the Court of learned Sub-Judge-I, Patna, in Title Suit No. 154 of 2016, the number of security guards within the campus of PMCH is not being increased.

21. Needless to say that if any party approaches the Court of learned Sub-Judge-I, Patna, for vacating the said order of injunction/stay, the same shall be disposed of expeditiously in accordance with law, considering the urgency of the matter.

22. This proceeding stands closed with the directions and observations as above.

(I. A. Ansari, CJ)

(Chakradhari Sharan Singh, J)

ArunKumar/-

AFR/NAFR	
CAV DATE	N/A
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Transmission Date	29.09.16