

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.13265 of 2016**

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1. Dayanand Singh Son of Late Ganesh Prasad Singh, Resident of Village- Sahpur,  
P.S- Benipatti, District- Madhubani.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department,  
Government of Bihar, Patna.
2. Principal Secretary, Health Department, Government of Bihar, Patna.
3. Civil Surgeon-cum- Chief Medical Officer, Madhubani.
4. Chairman, District Vigilance and Anushrawan Committee, Madhubani.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Baidya Nath Thakur, Adv.

For the Respondent/s : Mr. Mritunjay Kumar, A.C. to GP12

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**ORAL JUDGMENT**

**Date: 06-04-2017**

Heard Mr. Baidya Nath Thakur, learned counsel for the  
petitioner and Mr. Mritunjay Kumar A.C. to G.P.2 for the State.

The petitioner is aggrieved by the order of transfer bearing  
Memo No. 2026 dated 18.6.2016 passed by the Civil Surgeon,  
Madhubani impugned at Annexure-1 whereby he has been transferred  
from the Primary Health Centre, Babubarhi to the Primary Health  
Centre, Laukahi in the district of Madhubani. The issue raised by Mr.  
Thakur while accepting the position that in obedience of the transfer  
order the petitioner has joined the post on 24.9.2016, is that the order  
is neither in administrative exigencies or nor an independent exercise  
by the Civil Surgeon, Madhubani who is the competent authority to



transfer the petitioner rather it is on the dictates of the Chairman, District Level Vigilance and Monitoring Committee who is a stranger in the matter of transfer and posting of health staff as confirmed from the proceedings of the Committee brought on record vide Annexure-A which charges the petitioner of not coming to the office at proper time.

The arguments has been contested by Mr. Mritunjay Kumar learned A.C. to G.P. 12 who submits that since there was an allegation facing the petitioner hence in the exigency of service that he has been transferred.

Having heard learned counsel for the parties and considering that the counter affidavit does not discuss at any place as to the authority of the District Level Vigilance and Monitoring Committee to advise on transfer and posting of the petitioner as well taking note of the arguments that a simple direction by the Committee cannot become a matter of obedience by the Civil Surgeon without application of his mind as well taking note of the reasons accompanying the transfer present at Item No. 14 of the proceedings at Annexure-A which charges the petitioner of not attending the office regularly, the petitioner indeed was entitled to a hearing as well. The order lacks application of independent mind rather has been passed at the dictates of a body, the authority of whom has not been explained



in the counter affidavit in the matter of transfer and posting of health Department.

For the reasons discussed, the order of transfer bearing No. 2026 dated 18.6.2016 is quashed and set aside. The writ petition is allowed.

The consequences shall follow and the Civil Surgeon, Madhubani shall take necessary steps in this regard.

**(Jyoti Saran, J)**

Bibhash/-

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