

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19314 of 2016

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Nilam Kumari wife of Manoj Kumar Ambastha resident of Mohalla - South of Budha Dental College, P.O. - Lohia Nagar, P.S.- Patrakar Nagar, Kankarbagh, District - Patna, the Chairman Maitri A.N.M. Training Institute, Gandhi Nagar, Patna running under Nilam Education Foundation Trust, Patna - 800020.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The Director-in-Chief, Health Services, Bihar, Patna.
4. The Director-in-Chief (Nursing), Health Services, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Pramod Mishra, Advocate
For the Respondents	:	Mr. Birju Prasad, GP-13
		Mr. Ashok Kumar, AC to GP-13
		Mr. Amresh, AC to GP-13
		Mr. Ravi Kumar, AC to GP-13

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT

Date: 06-04-2017

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner is the Chairman, Maitri A.N.M. Training Institute, Gandhi Nagar, Patna. The said Institute, it is being claimed, conducts A.N.M. courses.

3. The petitioner is aggrieved by an order dated 07.10.2016, passed by Director-in-Chief (Nursing), Health Services, Bihar, Patna, whereby the application/proposal, to grant recognition to the said Nursing Institute, has been rejected.

4. It is the claim of the petitioner that the Institute was inspected by a duly constituted Committee on 25.04.2015, and the Committee found that the Institute fulfilling all conditions,



and accordingly recommended for grant of recognition for conducting the said course.

5. It is further claim of the petitioner that despite there being positive recommendation, the State respondents initially sat tight over the matter, and finally, by impugned order, the recommendation for recognition has been refused.

6. It is to be noted that the petitioner had earlier approached this Court by filing writ application giving rise to C.W.J.C. No. 19304/2015, which came to be disposed of by an order dated 01.04.2016, requiring the State respondents to take final decision on the question of grant of recognition. As has been noticed, upon consideration of the report of the Committee and other materials, the Director-in-Chief (Nursing), by an order dated 07.10.2016, has rejected the application for grant of recognition to the said Institute.

7. On perusal of the impugned order dated 07.10.2016, it appears that refusal of recognition is for the reason that the Institute was found to be running in a rented/leased out premises, and no registered deed of lease/rent was made available. Neither the Institute has its own land nor building for running the Institution. It further appears that the Chairman of the Institute was directed to furnish related documents regarding registered rent/lease deed and title of minimum 80 decimals of land in the name of Institute for construction of building, which too, the Institute did not comply with. In that view of the matter, the request for grant of recognition has been refused.



8. Learned counsel appearing on behalf of the petitioner has submitted that there was no occasion for the Director-in-Chief to take a different view, than what was reported in the report of Four Men Committee recommending recognition. He has submitted that there is no requirement of registered lease deed or rent deed for taking any premises on rent or lease for the purpose of running the Institution. This is admitted fact that the Institute does not have its own land for construct of building for running Institution.

9. In the background of facts as noted, which are admitted, I do not find any infirmity in the impugned decision of the Director-in-Chief (Nursing), Health Services, Bihar, Patna. Thus, I find no merit in this application.

10. Learned counsel for the petitioner has submitted that in similar circumstances, other Institutions, which are running in leased/rented premises and which did not have any land or building of their own, have been granted recognition. He has, therefore, submitted that the respondents should be directed to grant recognition to the petitioner's Institute also. The submission has basic fallacy. An illegality cannot be directed to be followed. If, recognition to such Institutions has been granted illegally, the State Government cannot be directed to commit the same illegality in petitioner's case.

11. However, it would be appropriate to observe that the Director-in-Chief shall look into this aspect of the matter in view of the grievance which has been raised on behalf of the petitioner and examine whether those Institutions, as mentioned



in paragraph 22 of the writ application, have been granted recognition in accordance with law and proceed thereafter, accordingly.

12. With the aforesaid observations, this writ application stands dismissed.

(Chakradhari Sharan Singh, J.)

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