

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9390 of 2016

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1. Panchadeo, son of late Shyam Lal At Lohia Karpuri Institute , Mahinathpur, P.O. Rampatti, P.S. Rajnagar, District: Madhubani.
 2. Gagan Gaurav, son of Shambhu Kumar Chaudhary, Resident of Ram Singh Tola, Bahadurnagar, P.S. Mufassil (Katilpur) District Munger.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar at Patna.
2. The Principal Secretary, Health Department, Bihar at Patna.
3. The Principal Secretary, Revenue and Land Department, Bihar at Patna
4. The Deputy Secretary, Health Department, Bihar at Patna
5. The Collector, Patna.
6. The Senior Superintendent of Police, Patna.
7. Dr. Naresh Trehan, the Director, Medanta, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarendra Nath Verma, Advocate
For the State : Mr. Anjani kumar- AAG-6

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 20-02-2017

The present petition, in public interest, is to claim a writ of mandamus commanding the respondents to return the land and building of Jayprabha Hospital and Research Centre, Patna to its Board of Management Trustee for attainment of the aim and objectives of the said registered society and to allot any other



alternative land to Medanta, New Delhi by cancelling the land acquired by Jayprabha Hospital and Research Centre, Patna.

The writ applicants claim to be social workers. It is pointed out that Smt. Prabhawati Devi, wife of Jaya Prakash Narayan, died in the year 1973 of cancer, therefore, some of the followers of the great soul met and founded a trust in the name and style “Jayprabha Hospital and Research Centre” on 11th September, 1977 with specialized medical treatment of cancer and kidney in the field of Allopathy, Homeopathy, Ayurved, Unani, etc. in view of the fact that Smt. Prabhawati Devi died of cancer and Jaya Prakash Narayan on account of kidney problem.

The State of Bihar allotted seven acres of land on symbolic payment of Rs. 1/- at Lohianagar, Kankarbagh. The Hospital started functioning after construction of a small building. Machines and some other medical equipments came to be donated by Jaya Prakash Narayan. A Blood Bank came to be started in the said Research Centre at the instance and with the aid of the Central Government. But the members of the trustee-Committee either for reasons of their over-engagement or for some other reasons, chose to neglect the well-christened objectives of the said Hospital. It is admitted that the Hospital could not function well and could not attain the pious objectives for which it was founded and veered out



of its destined and planned directions. There were some differences and discrepancies cropped up between the members of the management Committee. It was on 18th of August, 1989, a letter was issued by the three members of the management-committee to the Chief Minister, Bihar for taking over of the management of the said Hospital with its entire assets and liabilities so that objects and schemes of the Hospital are achieved without any more delay. It is thereafter, vide notification dated 26th of February, 1991, the hospital was taken over in exercise of powers conferred under the Bihar Provincialization of Sheds & Hospitals Act, 1947 with effect from 10th of August, 1990. It is, thereafter, the Hospital ran smoothly for few years though not exactly for the aims and objectives, it was founded. The hospital in question continued with slow pace and little service to the poor people of Bihar which was fundamental aim and object behind the foundation.

The grievance of the petitioners is that the Government of Bihar announced to give land and building to Medanta, Delhi on Private-Public Partnership Mode. It is the said decision which is challenged by the petitioners in the present writ application whereby, the Hospital in the name and style “Jayprabha-Medanta” is proposed to be set up in the land earlier given to the trust at the nominal cost of Rs. 1/-.



On behalf of the State, a counter affidavit has been filed wherein it is, *inter alia*, mentioned that the institution was facing financial constraints from the date of inception and was not running smoothly for want of funds. The salary of the employees became due for several months. In view of the pitiable conditions of the Institution, the two eminent members of the Board of Trustee, namely, Dr. Lala Suryanandan Prasad and Padmshree Dr. C.P. Thakur made a request on 18th of August, 1989 to the Chief Minister to take over the management of the institution. On the receipt of the said request, a three-member Committee was constituted which after enquiry submitted a report on 13th of March, 1989 recommending that the institution be taken over by the State Government. A draft notification was published on 10th of August, 1990 and after issuing notice, the State Government took over the institution vide notification dated 26th of February, 1991.

In the meantime, the State Government felt to establish a Super Specialty Hospital to cater to the needs of people of Bihar, who have to go out of the State, for specialized treatment for serious diseases. Under the Chairmanship of the Chief Secretary-cum-President, Industrial Development Authority (IDA) at its meeting dated 16th of April, 2013, the committee decided to develop Jayprabha Hospital into a Super Specialty Hospital under the



Private-Public Partnership Mode. It was decided by the empowered Committee on 24th of July, 2014 to transfer 7 acres of vacant land of Jayprabha Hospital, Kankarbagh to develop it as Super Specialty Hospital. Infrastructure Development Authority was appointed as nodal agency. The Infrastructure Development Authority assigned International Finance Corporation to assist in the selection of private developer for the project. It is thereafter, a global request for proposal was published on 15.12.2014 in which five bidders purchased the bid documents. It is thereafter, only two bidders, namely, Appollo Hospital Enterprises Limited and Global Health Pvt. Ltd. (Medanta) submitted the bid documents. The Appollo Hospitals Pvt. Ltd. offered Rs. 51.00 lacs per year as premium but the Global Health Pvt. Ltd. (Medanta) offered Rs. 3.00 Crores per year and hence, after scrutiny, the Global Health Pvt. Ltd. was made preferred bidder. It is in the meeting chaired by the Chief Secretary, Bihar, the proposal was approved on 7th of August, 2015 which was subsequently approved by the Cabinet in its meeting held on 18th of August, 2015 and a Memorandum of Understanding was signed on 22nd August, 2015. The land was made available to Medanta after payment of Rs. 3.00 crores as first premium amount.

The salient features of Super Specialty Hospital are that 500 beds would be constructed in three phases. The first phase of



100 beds is to commence operation within two years from the effective date, the second phase of 300 beds to commence operation within four years from the effective date and in the third phase in the event of occupancy of 90% of beds, 100-100 additional beds would be constructed to the maximum limit of 500 beds. Specialized treatment in the field of orthopedic, cardiology, trauma and critical cases, Neuroscience, renal science, endocrinology, diabetes and gastroenterology and hepatology are contemplated.

Fee for the indoor patents is to be charged as per the Central Government Health Scheme (CGHS) rate for all treatments. 25% beds would be reserved for the BPL patients and remaining 75% would be given at market rates. It is also pointed out that commencement of construction has been initiated on 5th of May, 2016.

We find that the present Public Interest Litigation is gross abuse of process of Public Interest Litigation Mechanism developed for the help and need of the poor. The trust to which land was given has not been able to utilize the land allotted. The State Government acquired the entire assets and liability of the trust in terms of the notification dated 26th of February, 1991. But it appears that the said attempt also did not yield the desired results. It is 25 years later, the State Government has decided to develop a Multi



Specialty Hospital under the Private-Public Partnership Mode in view of the acute need of Super specialized treatment facility in the State.

The trustee was not able to run the Hospital from the very beginning and a non-functional Hospital for which land was given by the State on a nominal price of Rs. 1/-, is now being proposed to be used in larger public interest so that the people of Bihar are able to take super specialty treatment within the State rather than to go to other Hospitals outside the State.

We find that by filing the present writ application, the writ applicants are acting against the public interest and not for the public interest. As per the petitioners, the first petitioner claims to be member of *Janmukti Sangharshvahini*, whereas the second petitioner is member of *Swaraj Abhiyan*.

We find that the petitioners, though claim to be social workers, but are acting against the welfare of the people of the State. Huge land measuring 7 acres is lying practically unutilized for almost 40 years. But when State has started the project to set up super specialty hospital after global tenders, two persons have come up to put obstructions. We do not find that what public purpose is sought to be achieved, if the residents of this state are provided such treatment as no such facility is available in the State.



Consequently, we dismiss the present writ application with costs. The cost assessed as Rs. 50,000/- (Rupees fifty thousand only) to be paid to Patna High Court (Middle Income Group) Legal Aid Society within one month.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

S.Pandey/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	01.03.2017
Transmission Date	

