

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

**Letters Patent Appeal No.1463 of 2016  
IN  
Civil Writ Jurisdiction Case No. 8690 of 2016**

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1. Tripathi Nursing Home through its Managing Director having its Registered Office at Chatradhari Bazar, South of Jail, P.S.- Bhagwan Bazar, Dist- Saran.

.... .... Appellant/s

Versus

1. The State of Bihar through its Principal Secretary, Health Department, State Government, Bihar.
2. The District Magistrate cum Chairman, R.S.B.Y. District Core Committee, Saran at Chapra.
3. The New India Assurance Company Limited through its Chairman, having its Register Office- 87, M.G. Road, Fort, Mumbai- 400001.
4. Health India (Administrator), having its Register Office at Vikroli, Mumbai.

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Alok Kumar Choudhary, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha, GA-9

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE SUDHIR SINGH**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 01-05-2017**

Seeking exception to an order dated 22.6.2016 passed by the learned Writ Court in C.W.J.C. No.8690 of 2016, this appeal has been filed under Clause 10 of the Letters Patent.

Petitioner, a Nursing Home, was empanelled under the Rashtriya Swasthya Beema Yojna for granting medical welfare facility to persons living below the poverty line and card holders. The petitioner runs a Nursing Home with laparoscopic surgery facility and because of various acts of commission and omission



done in the Nursing Home during the period 2015-16 while conducting three operations, criminal cases have been registered against the Nursing Home and because of the same the petitioner's name has been removed from the panel of Nursing Homes under the scheme in question after recommendation of the District Core Committee and orders passed by the District Magistrate, who happens to be Chairman of the Core Committee. The learned Writ Court, finding that the action taken against the petitioner is based on registration of a criminal case granting liberty to the petitioner to seek restoration into the panel after the criminal case is concluded and the petitioner is exonerated, the writ petition has been disposed of.

Learned counsel appearing for the petitioner invites our attention to the agreement entered into under the scheme between the petitioner and the Insurance Company and argues that under the agreement in question opportunity of hearing, show cause notice and enquiry is contemplated and as the impugned action has been taken in violation to the same, the learned Writ Court should have interfered. Apart from the fact that the agreement in question is a non-statutory agreement under a Central Government sponsored scheme and for enforcement of such a non-statutory scheme a writ of *mandamus* cannot be issued, we are of the considered view that once



with regard to some acts committed by the nursing home in question an F.I.R. is registered and a criminal case pending, the act of the respondents in removing the petitioner from the panel of hospitals cannot be said to be illegal or irregular to such an extent that interference into the matter under Article 226 of the Constitution is called for.

Accordingly, finding no case for interference, the appeal stands dismissed.

**(Rajendra Menon, CJ)**

**(Sudhir Singh, J)**

K.C.jha/-

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