

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8308 of 2009

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MIRA DEVI WIFE OF LATE SHIV SHANKAR TIWARI, SON OF LATE JANG BAHADUR TIWARI, RESIDENT OF VILLAGE RATANAWAN, POLICE STATION PATAHI, DISTRICT EAST CHAMPARAN, PRESENTLY RESIDING AT NAYA TOLA NEAR REFERRAL HOSPITAL, POLICE STATION DHAKA, DISTRICT EAST CHAMPARAN.

.... Petitioner

Versus

1. THE STATE OF BIHAR
2. THE COMMISSIONER CUM SECRETARY, HEALTH DEPARTMENT, GOVERNMENT OF BIHAR, PATNA
3. THE DIRECTOR IN CHIEF, HEALTH SERVICES, PATNA
4. THE DEPUTY SECRETARY TO GOVERNMENT, HEALTH MEDICAL EDUCATION AND FAMILY WELFARE DEPARTMENT, GOVERNMENT OF BIHAR, PATNA
5. THE REGIONAL DEPUTY DIRECTOR, HEALTH SERVICES, TIRHUT DIVISION, MUZAFFAPUR
6. THE CIVIL SURGEON CUM CHIEF MEDICAL OFFICER, EAST CHAMPARAN AT MOTIHARI, DISTRICT EAST CHAMPARAN
7. IN CHARGE MEDICAL OFFICER, REFERRAL DEPUTY DIRECTOR, HEALTH SERVICES CUM ENQUIRY OFFICER, TIRHUT DIVISION, MUZAFFARUR.

.... Respondents

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Appearance :

For the Petitioner : None

For the Respondents : Mr. Asif K., Advocate AC to AAG 12

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 03-04-2018

None appears for the petitioner. Counsel for the State is present.

2. It appears from the appellate order dated 27.03.2009 (Annexure 16), which is impugned in the instant case along with order of punishment dated 16.04.2007 (Annexure 13), passed by the Disciplinary authority, that minor punishment has been inflicted upon the petitioner's husband, since deceased. Order of the disciplinary authority dated 16.04.2007 contemplates that the punishment is subject to and would be effected by the final outcome of the CBI case. The CBI has submitted charge sheet dated



20.06.2000 wherein amongst the accused, who have been sent up for trial, name of petitioner’s husband does not figure. It is specific case of the petitioner that her husband has been put under the list of witnesses.

3. In spite of the specific contemplation in the order of punishment dated 16.04.2007 that the punishment would be dependent upon the conclusion of the CBI case, it appears that the fact regarding the petitioner not being sent up for trial by charge sheet dated 20.06.2000 has not been taken into consideration in the appellate order while rejecting petitioner’s appeal by order dated 27.03.2009.

4. In view of the aforesaid situation, the petitioner, if so advised, may make an application before the Appellate authority to consider the matter for giving some benefits to the petitioner in view of her husband having not been sent up for trial under the charge sheet submitted by the CBI taking into consideration that the petitioner has been made a witness in the CBI case.

5. The writ petition is disposed of in the aforesaid terms.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	
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