

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1652 of 2017

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Tej Narain Das aged about 45 Years, Son of Late Gunjar Ravidas, R/o Village- Jayanti Nagar, Mahdeoganj, P.S.- Mahadeoganj, District- Sahebganj, presently residing at Khankite, Block Chowk, abour, P.S.- Sabour, District- Bhagalpur, Working at Primary Health Centre, P.S.- Goradih, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar Through The Law Secretary, Government of Bihar, Patna.
2. Smt. Gauri Devi W/o Tej Narain Das and D/o Sri Laxmi Ravidas, R/o Mohalla- Driver Tola, Lal Kothi Road, Ward No. 17, Katihar, P.S. & District- Katihar.
3. Chief Medical Officer-cum-Civil Surgeon, Bhagalpur.
4. Medical Officer Incharge, Primary Health Center, Gauradih, Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Sharma, Adv.
Mr. Chetan Kr., Adv.
For the Respondent/s : Mr. K.K. Sinha, AC to SC-10
For the O.P. No. 2 : Mr. Sanjeev Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 24-08-2018 This writ application has been preferred for quashing of the order dated 07.12.2016 and 03.07.2017 passed by learned Principal Judge, Family Court at Katihar in Maintenance Case No. 107 of 2016 filed by the respondent no. 2 under Section 125 of the Code of Criminal Procedure. Petitioner is the husband of the respondent no. 2 and is said to be working under the control of the Civil Surgeon, Bhagalpur. It appears that the learned Principal Judge, Family Court, Katihar has directed this petitioner to pay a sum of Rs. 10,000/- per month towards interim maintenance of the respondent no. 2 w.e.f. from the date of order but the petitioner is



unable to pay the said amount because he has not earned his salaries, the allegation is that he has remained unauthorizedly absent from his duty, however, at this stage, by filing a supplementary show cause, the Medical Officer, District Leprosy Office, Bhagalpur has taken a stand on behalf of the Civil Surgeon (respondent no. 3) that in order to implement the order dated 21.06.2016 passed by learned Principal Judge, Katihar, he had taken certain steps and had directed the In-charge Medical Officer, Primary Health Center, Gauradih to ensure deposit of Rs. 1,20,000/- in the account of respondent no. 2. The In-charge Medical Officer was reminded also to comply with the direction but later on it was found that no amount of salary stands payable to the petitioner in view of his absence from 17.08.2017 to 25.06.2018. It is, however, stated now that petitioner has joined his duty on 26.06.2018. The affidavit contains Annexure-F which is a letter dated 07.08.2018 from the In-charge, Medical Officer of the Primary Health Centre, Gauradih, Bhagalpur to the Civil Surgeon, Bhagalpur in which by a tabular form the In-charge Medical officer has attempted to show the amount which the petitioner may earn from July 2018 to Feb 2019 which comes to a sum of Rs. 03,16,191/-. He has requested the Civil Surgeon to make available the aforesaid amount, however, learned counsel



representing the Civil Surgeon submits that this kind of fund cannot be made available to the In-charge Medical Officer unless the petitioner earns his salary.

In the opinion of this Court, the stand taken on behalf of the Civil Surgeon, Bhagalpur is correct. The In-charge, Medical Officer instead of looking for the entire of amount Rs.03,16,191/- in one go is directed to deposit the amount which the petitioner has earned since his joining in the month of July 2018 and henceforth he will continue to deduct 1/3rd of the salary amount of the petitioner and shall remit the same in the account of respondent no.2 every month in order to ensure payment of the arrear as well as the current maintenance amount to respondent no. 2.

Learned counsel for the petitioner has taken a fair stand saying that in case the petitioner fails to earn his salary in future because of his unauthorized absence or for any other reason, he would apply for availing a portion of his provident fund accumulations to meet the liability on account of arrear and current maintenance of respondent no. 2. The undertaking given on behalf of the petitioner is recorded hereinunder with a direction to the learned Presiding Officer, Family Court, Katihar to keep the distress warrant in abeyance till the employer of the petitioner



keeps on remitting 1/3rd of the salary amount of the petitioner every month in the account of the respondent no. 2 subject to a limit of the entitlement of the respondent no. 2 in terms of the order passed by the Presiding Officer.

This Court has also been informed that the petitioner has filed an application under Section 127 Cr.P.C. to vary or modify the order of interim maintenance given the facts and circumstances therein. It is for the concerned court to consider the said application and pass an appropriate order. Till then the aforesaid arrangement shall continue. The parties shall abide by the order. Breach of the order on part of the petitioner shall be taken seriously.

The writ application stands disposed off with the aforesaid directions and observations.

(Rajeev Ranjan Prasad, J)

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