

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5896 of 2018

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Shiv Kumar Sao, Son of late Bisun Sao, Resident of Village- Punama, P.S.
Wazirganj, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Health Department, Bihar, Patna.
3. The Director, Health Services, Bihar, Patna.
4. The Commissioner, Magadh Division, Gaya.
5. The Anugrah Narayan Magadh Medical College, Gaya.
6. The Superintendent, Anugrah Narayan Magadh Medical College and Hospital
Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dshirendra Kumar Trivedi, Adv.
For the Respondent/s : Mr. Surya Kant Kumar, AC to GA-8

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 04-09-2018

Heard learned counsels for the petitioner and the
respondent-State.

The present writ application has been filed for
quashing of the Report of Medical Board dated 20.02.2017,
issued vide Memo No. 18, contained in Annexure-2.

The factual matrix of the case is that the 13 year old
daughter of the petitioner, Baby Kumari, fell seriously ill with
complain of headache, high fever and dysentery, on which she
was taken to the clinic of Dr. Bipin Kumar, Medical Officer,
Wazirganj, Gaya on 11.09.1997 and, thereafter, she was referred
to the clinic of Dr. Yogendra Kumar Singh on 12.09.1997 at



Piparpati Gaya, from where she was ultimately referred to A.N.M.M.C.H., Gaya, where she was admitted in general ward, but she was not given proper treatment and care in A.N.M.M.C.H, Gaya, as a result of which her condition deteriorated. Ultimately, she died on 13.09.1997 due to medical negligence. Aggrieved with the same, the petitioner made a complaint before the Department, of Health, Govt. of Bihar, Patna, the Chairman, National Human Right Commission, New Delhi, the District Magistrate, Gaya and the National Women Rights Commission, New Delhi.

Ultimately, the petitioner preferred CWJC No.10117 of 2014 for a direction to the Department of Health, Govt. of Bihar to pay compensation for the death of his daughter due to medical negligence on the part of the A.N.M.M.C.H, Gaya. A counter affidavit was filed in the said writ application bringing on record the report of Three Member Medical Committee to the effect that the present case is not case of medical negligence. Since the petitioner was not given any notice to represent his case, the aforementioned writ application was disposed of with following observations :-

“In view of the aforesaid, the writ application stands disposed off with a direction to the Principal



Secretary, Department of Health, Bihar, Patna to constitute a fresh committee of persons who may be unconnected with the working of the hospital in question and who are eminent persons in their field, including doctors, who shall look into the matter and submit a report after giving due opportunity of hearing to the petitioner. The said exercise be completed within three months from the date of production of a copy of this order before the Principal Secretary, Department of Health, Bihar, Patna. A copy of the report shall be communicated to the petitioner within two weeks of submission of the same. The petitioner thereafter shall have liberty to take appropriate action, based on the report submitted, in accordance with law.”

It is submitted by learned counsel for the petitioner that the petitioner claims that his daughter died due to medical negligence, but the medical board submitted its report as contained in Annexure-B to the counter affidavit to the effect that there is no medical negligence on the part of the hospital authorities. The medical board also did not take in consideration



the version of the petitioner.

It is submitted by learned AC to GA-8 that the petitioner has not pointed out any infirmity in the report. The report clearly suggests that as per the direction in the earlier writ application, the petitioner was heard and the Members of the Committee Came to the finding that the daughter of the petitioner was suffering from meningitis and was given proper treatment, but she could not be saved, hence, the report does not require any interference.

Having heard learned counsel for the parties, this Court is of the view that the victim died in the hospital in 1997. For the first time, the petitioner filed CWJC No.10117/2014, after about 17 years of the death of the daughter of the petitioner, which was disposed of vide order dated 13.12.2016, with a direction to constitute a fresh committee of persons, who may be unconnected with the working of the hospital in question and who are eminent persons in their field, including doctors, who shall look into the matter and submit a report after giving due opportunity of hearing to the petitioner. The whole exercise was directed to be completed within a period of three months from the date of production of a copy of this order. In pursuance to the same, the fresh Committee was constituted and



after having enquired it came to the finding vide its report dated 20.02.2017, as contained in Annexure-3 to the counter affidavit, that the daughter of the petitioner was suffering from meningitis and she was given proper treatment. On perusal of writ application, it does not get suggested that the petitioner has raised any grievance with regard to the Constitution of the Committee. Moreover, the petitioner was failed to point out any infirmity in the report.

Keeping in view the hopelessly delayed claim coupled with the fact that twice the medical board did not find it to be a case of medical negligence, this Court is not inclined to interfere.

Accordingly, the writ application stands dismissed.

(Dinesh Kumar Singh, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

