

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

**Civil Writ Jurisdiction Case No.3303 of 2016**

=====

Shailendra Prasad Yadav, son of Late Jamun Prasad Yadav, resident of Village: Narthura, P.O.: Bhagipur, P.S.: Alamnagar, District: Madhepura, At present address- Madhepura, Jai Prakash Nagar, Ward No. 6, P.S. & District: Madhepura.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, New Secretary, Patna.
2. The Director-in-Chief, Health Directorate, Bihar, New Secretariat, Patna.
3. District Magistrate, Madhepura.
4. Civil Surgeon-cum-Chief Medical Officer, Madhepura.
5. District Treasury Officer, Madhepura.
6. Incharge Medical Officer, Primary Health Centre, Murho, District : Madhepura.

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Shekhar Kumar Singh, Adv.  
Mr. Raja Surendra Mohan, Adv.

For the Respondent/s : Mr. Md. Harun Rashid, AC to SC-1

=====

**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**ORAL JUDGMENT**

**Date: 26-03-2018**

Heard Mr. Shekhar Kumar Singh, learned counsel appearing for the petitioner and Mr. Harun Rashid, learned Assisting Counsel to Standing Counsel No.1 for the State.

The petitioner prays for issuance of a writ in the nature of mandamus commanding the respondents more particularly the respondent nos.4 to 6 i.e. the Civil Surgeon –cum- Chief Medical Officer, Madhepura and others, for payment of arrears of salary for the period from 1.5.2003 to 3.8.2004 and from 1.3.2006 to 7.1.2010.

A counter affidavit is filed on behalf of the respondent nos.4 to 6 and Mr. Rashid in reference to paragraph 6 thereof



submits that since the petitioner had not handed over the records of the office of R.C.H. (जिला प्रतिरक्षण कार्यालय), Madhepura of which he was custodian that the salary for the period in question was withheld. It is explained that the petitioner was posted in the said centre where he worked until 18.3.2004, whereafter he was transferred to Murho where he did not join and at the same time he also did not hand over the records. It is stated that action was taken against the petitioner and salary was withheld because he did not hand over the records of the R.C.H. office (जिला प्रतिरक्षण कार्यालय), Madhepura. Mr. Rashid has also invited the attention of this Court to the order bearing Memo No.1374 dated 11.8.2010 of the Civil Surgeon –cum- Chief Medical Officer, Madhepura enclosed at Annexure B/1 to submit that despite the petitioner being put on notice yet he has not discharged his obligation.

A supplementary affidavit is filed today in contest of the stand taken by the respondents in the counter affidavit and Mr. Shekhar Kumar Singh, learned counsel appearing for the petitioner in reference to Annexure 10 of the rejoinder has submitted that the records have since been handed over to one Neel Kamal, Clerk in the office of the Additional Chief Medical Officer, Madhepura and Diwakar Kumar, the evidence of which is at Annexure 10 and 10/A to the rejoinder. He thus submits that the impediment whatsoever, is



now removed and the respondents may be appropriately directed to discharge their obligation.

Having heard learned counsel for the parties and in the nature of discussion made hereinabove, I deem it proper to direct the respondent no.4 i.e. the Civil Surgeon –cum- Chief Medical Officer, Madhepura to consider the grievance of the petitioner as regarding the non-payment of salary in the light of the subsequent development noted above and dispose of the same by a speaking order to be passed within three months from the date of receipt/production of a copy of this judgment.

The writ petition is allowed with the direction aforementioned.

**(Jyoti Saran, J)**

SKPathak/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 30-03-2018 |
| Transmission Date | NA         |

