

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4484 of 2019

Surendra Yadav Son of Late Achchhe Yadav @ Achchhe Lal Yadav, Resident of Village- Baruar, P.S.-Babubarhi, District-Madhubani

... .. Petitioner

Versus

1. Union Of India Through Secretary, National AIDS Control Organization (NACO), 9th Floor, Chancralok Building, Janpath, New Delhi.
2. Principal Secretary, Department of Health, Bihar Patna
3. The Principal Secretary, Department of Social Welfare, Bihar Patna
4. The District Magistrate, Madhubani
5. The Chief Medical Officer-Cum-Civil Surgeon, Madhubani
6. The Secretary, Ministry of Health & Family Welfare, Government of India, New Delhi New Delhi
7. The Project Director, Bihar State AIDS Control Society, Sheikhpura, Patna Bihar
8. The Nodal officer, Anti Retroviral Therapy (ART) Center, Madhubani Bihar
9. The Superintendent, Sadar Hospital, Madhubani

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Vikash Kumar Pankaj, Advocate
For the Respondents	:	Mr. S.D.Yadav AAG9
For Union of India	:	Mrs. Nivedita Nirvikar, CGC
For Respondent No. 7	:	Mr. Sanjiv Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

8 09-12-2019

The petitioner has prayed for following reliefs:-

“(i) To issue writ order/direction in nature of mandamus directing the Respondents particularly, respondent No. 3 to 5 & 7 to forthwith immediately appoint at least one qualified Doctor and a nurse at the Anti Retroviral Therapy (ART) Center, Madhubani as the same is running without a qualified Doctor or nurse and the ARV medicines & Opportunistic Infection (O.I.) Medicines are being distributed without the prescription or in



consultation of an M.B.B.S. doctor from last two year.

(ii) To issue writ order/direction in nature of mandamus directing the Respondent particularly, Respondent no. 1,3,5,7 & 8 to ensure that the CD4 machine installed at the Anti Retroviral Therapy (ART) Center, Madhubani is functional and there is no stoppage or hindrance in the CD4 test of the patients as presently, the CD4 tests of the patients at the center are not being conducted from last two months.

(iii) To issue writ order/direction in nature of mandamus directing the Respondents particularly, Respondent No. 1, 3,5,7,8 & 9 to ensure & maintain continuous supply of Anti Retroviral (ARV) drug/medicines & Opportunistic Infection (O.I.) Medicines in accordance with directions issued by the Hon'ble Court under Orders dated 15.07.2014 & 12.08.2014 passed in C.W.J.C. No. 5440 of 2011: Sanjit Singh @ Sanjeet Singh Vs. The Union of India & Ors (Annexure-3 & 4).

(iv) To issue writ order/direction in nature of mandamus directing the Respondents particularly, Respondent No. 1,3,5,7,8 & 9 to ensure & maintain continuous supply of pediatric Anti-Retroviral (ARV) drug/medicines which is currently not available from last several months."

From the counter affidavit dated 21.10.2019 filed by respondent no. 5, we find that the grievances of the petitioner have been redressed.

The relevant portion of paragraph nos. 7, 8, 9 and 10 thereof reads as under:-

"7. That it is stated that the ART centre at Madhubani was established in the year 2011 and the CD4 machine was installed in the year 2013 and since then the centre as well as the CD4 machine has been running smoothly and only in some minor break down the machine has stopped for a limited period but the



allegation that it is not working for the last two years is false.

8. That it is further stated that there has been no shortage of essential medicine at the centre and the same has been regularly supplied by the BSACS and in few cases when there appeared to be shortage the same has been meted out from the Darbhanga ART Centre.

That it is further stated that one Dr. Dev Shankar Mishra is posted at the Art Centre since 2011 and one Chandra Prabha Kumari ANM is posted since 2017 as also one Lab Technician is posted since 2011 and they have been regularly discharging the duties.

10. That it is further stated that the centre is fully functional and the answering deponent assures this Hon'ble Court that he will take all necessary steps so that the patients at the said centre do not suffer which is the bounden duty of the answering respondent being the Chief Medical Officer cum Civil Surgeon, Madhubani."

As such, we dispose of the present writ petition reserving liberty to the petitioner to approach the appropriate authority highlighting the grievance.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

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