

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21676 of 2018

=====

Asha Kumari Wife of Sri Ramashish Sharma, Resident of Village-
Chandchaura, P.S.-Civil Line, District-Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director-in-Chief Nursing, Health Services, Government of Bihar, Patna.
3. The Regional Deputy Director, Health Services, Patna Division, Patna.
4. The District Magistrate, Bhojpur at Ara.
5. The Civil Surgeon Cum Member Secretary District Health Society, Bhojpur at Ara.
6. The Superintendent, Sadar Hospital, Ara.
7. Smt. Shobha Suman, Incharge Headmistress, A.N. M. Training School, Ara.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Nivedita Nirvikar
For the Respondent/s : Mr.Binod Kr.Yadav -SC-18

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

9 25-09-2019 In compliance of the order dated 24.09.2019, an explanation has been submitted by the Registry. The reasons assigned by the Dealing Assistant of the concerned Section is not satisfactory. Admittedly, the counter affidavit was filed on 21.09.2019. Till 24.09.2019, the affidavit was not tagged with the brief. It is evident from the explanation that the Assistant was aware of the listing of the case before the Court. He does not appear to have taken any sincere effort to ensure that the counter affidavit was tagged with the file. There is an explanation submitted by the Section Officer also, which too, is



also unsatisfactory.

2. I issue a note of caution to the Registry to be careful in future in such matters, particularly in cases where the matters are listed and are to be taken up as non-availability of the pleadings without any valid reason causes obstruction in disposal of the matter.

3. Coming to the merits of the present case now, I notice that in compliance of the order of this Court dated 04.09.2019, separate counter affidavits have been filed on behalf of the District Magistrate and the Civil Surgeon, Bhojpur at Ara. It has been stated in the counter affidavit that on the basis of certain complaints received from the Civil Surgeon in relation to the manner in which the petitioner was discharging her duties as Incharge Principal of A.N.M. Training School, Ara, a decision was taken to hand over the charge of Incharge Principal to respondent No.7. Statement has also been made that the District Magistrate had directed the Civil Surgeon, Ara to send a proposal for initiation of a departmental proceeding and suspension of the petitioner for her acts and inactions. It has been stated in the counter affidavit that against clear guidelines of the State Government, the petitioner was running several Bank accounts of the College in different Banks.



4. Learned counsel appearing on behalf of the petitioner on the basis of instruction, which she has received from her client, has submitted that there were only two bank accounts of the College are running, one of which is continuing with zero balance.

5. It also transpires from the counter affidavits filed on behalf of the District Magistrate as well as Civil Surgeon that position of the petitioner as Incharge Principal of the College has been restored. I must make it clear that the petitioner is holding the charge of Incharge Principal on temporary basis only in the absence of regular principal. She cannot be said to be legal right hold the said post. The observations which the Court had made in the order dated 04.09.2019 was in the background of the fact that replacing the petitioner, a person much junior to her was handed over the charge of the Incharge Principal.

6. In any view of the matter, the pleadings in the counter affidavit do not justify the action of the respondents in removing the petitioner from the post of Incharge Principal and handing over the charge of Incharge Principal to respondent No.7, who is admittedly much junior to the petitioner.

7. In that background, the impugned order dated 23.10.2018 is quashed.



8. The respondent shall be at liberty to proceed against the petitioner, in accordance with law but in the light of the submissions, which have been made on behalf of the petitioner as noted above and in the facts and circumstances of the case, it is observed that if the petitioner submits a representation before the District Magistrate, explaining the circumstance in which more than one bank accounts of the College are running, disciplinary action, if any, should be initiated against the petitioner, after considering such representation.

9. This application is allowed with the observation and direction as noted above.

(Chakradhari Sharan Singh, J)

arun/-

U			
---	--	--	--

