

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8582 of 2020

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Baijnath Prasad, Son of Late Ramkewal Mahto, Resident of Village-Bihar Bigha, Police Station-Dalmianagar, District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Health Education and Family Welfare, New Secretariat, Patna.
3. The Director-in-Chief, Health Services, Government of Bihar, Patna.
4. The Civil-Surgeon-Cum-Chief Medical Officer, Aurangabad.
5. The In-Charge Medical officer, Primary Health Center, Deo District-Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gajendra Kumar Singh, Advocate
For the State	:	Mr. S.D. Yadav, AAG IX
		Mr. A.K. Verma, AC to AAG IX

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 18-04-2022

Heard learned counsel for respective parties.

In the instant petition, petitioner has prayed for the following reliefs:-

“For issuance of a writ in the nature of certiorari or any other appropriate writ/order/direction to quash the letter No. 73 dated 28.01.2020 (Annexure-11) issued by the In-Charge Medical Officer, Primary Health Center, Deo, District- Aurangabad (Respondent No. 5) whereby and where under the petitioner has been directed to deposit the recovery amount of Rs. 14,22,706/- (Fourteen Lakhs Twenty-two Thousand Seven Hundred Six) only, which amount has been paid by the Respondent to the petitioner for payment of consequential



benefit. And/or Pass such other order or orders as your lordships may deem fit and proper.”

Short question for consideration in the present case is before issuing impugned order and directing petitioner to deposit/recovery amount is after due hearing of the petitioner or not?

Learned counsel for the respondent fairly submitted that the petitioner has not been provided an opportunity of hearing before passing of the impugned communication dated 28.01.2020 (Annexure-11). Such order was passed by the In-charge Medical Officer, Primary Health Centre, Deo, District-Aurangabad, i.e., respondent no. 5.

The concerned authority is hereby directed to examine as to whether fifth respondent is competent to issue such communication to the petitioner or not?

On the sole ground that the petitioner has not been provided opportunity of hearing, the present petition stands allowed and the impugned order dated 28.01.2020 (Annexure-11) issued by the In-charge Medical Officer, Primary Health Center, Deo, Aurangabad stands set aside reserving liberty to the competent authority to proceed in accordance with law after giving ample opportunity of hearing including issuance of show cause notice and



receipt of petitioner’s explanation for the proposed recovery or deposit amount. Such action shall be taken within a period of six months from the date of receipt of this order. In the meanwhile, if any recovery is effected the same shall be refunded to the petitioner within a period of two months from the date of receipt of this order.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

