

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16211 of 2017

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Dhirendra Kumar, son of Sri Suresh Prasad Singh, resident of L.I.G. - 85,
Sahid Bhagat Singh Colony, Mustafabad, Police Station-Rampur in the
district of Gaya.

... .. Petitioner

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Department of Health, Government of Bihar, Patna.
4. The Central Bureau of Investigation through its Director, New Delhi.
5. The Director, Central Bureau of Investigation, New Delhi.
6. The Joint Director, Central Bureau of Investigation, Patna.
7. The Additional Director General, Vigilance, Government of Bihar, Patna.
8. The Executive Director, Bihar Health Society, Patna, Bihar.

... .. Respondents

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Appearance :

For the Petitioner/s :	Mr. Sunil Kumar, Advocate
For the Respondent-State:	Mr. Bishwa Bibhuti Kumar Singh, Advocate
For State Health Society :	Mr. K. K. Sinha Advocate
	Mr. Shashi Shekhar, Advocate
For the CBI :	Mr. Bipin Kumar Sinha, SC/CBI
For Vigilance :	Mr. Deepak Sahay Jamuar, Advocate
For Intervenor Petitioner:	Mr. Gyan Prakash, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and

HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 12-07-2022

Heard learned counsel for the petitioner and

learned counsel for the State. Learned counsels for the

Vigilance, Central Bureau of Investigation and the State Health

Society are present.

2. The instant writ petition has been filed by the

petitioner as a Public Interest Litigation (for short 'PIL') on the

basis of paper publication about alleged misappropriation of



amount of National Rural Health Mission (for short 'NRHM') so allotted by the Government of India to the State Government.

3. It is contended on behalf of the petitioner that huge amount of public money allotted under NRHM Scheme is being misappropriated by the officials/staffs of the State Health Society as well as the District Health Society of the State in connivance with each other. Hence, it is necessary in the interest of justice that the entire matter of misappropriation should be investigated upon by the independent agency like CBI.

4. It would appear from the record that the said paper publication is based on the performance of audit report of CAG for the intervening period upto ending March, 2015.

5. The respondent-Department of Health has filed numerous counter affidavits in the present matter. From the averments made in counter affidavit and supplementary counter affidavits of the respondent-State it would be evident that the so-called CAG report was laid before the State Legislature in March, 2016. Thereafter, the matter was placed before the Public Accounts Committee (for short 'PAC') being a Statutory Committee constituted with the members of Vidhan Sabha for its perusal. The audit report of CAG regarding implementation of NRHM scheme in the State of Bihar was discussed in the



PAC meeting held on 04.12.2017 in order to proceed further in terms of suggestions/objections regarding implementation of NRHM scheme. The PAC in its meeting held on 04.12.2017 directed the officials of both the departments (AG and Department of Health) to sit together, examine and find out the objections/suggestions so reported in the said performance audit report of CAG and then to proceed further in the matter in order to comply the suggestions/objections/findings given in the said CAG report bearing no.02/2015. Accordingly, a meeting was held on 15.12.2017 in which the officials of the State Health Society/Health Department participated with the officials of the Accountant General to meet out the suggestions/objections made in the said performance report of CAG and also for taking necessary steps against objections highlighted in the CAG report. The necessary discussions were made in the said meeting on 15.12.2017 and, accordingly, minutes of meeting was sent to the Health Department, Government of Bihar vide AG Audit Letter no.911 dated 03.01.2018. From perusal of the said minutes of meeting dated 15.02.2017 it would appear that the office of AG had in principal found reply of some paras as satisfactory/sufficient steps/action taken by the department concerned in the implementation of the NRHM scheme. In the



remaining paragraphs some additional information/documents were called for by the office of the AG. In compliance of the shortfalls disclosed in the minutes of meeting dated 15.12.2017, the respondent-Society by its letter dated 15.01.2018 submitted its parawise reply in support of action taken to the Department of Health, Bihar for onward submission to the AG. The same was sent along with the desired documents to the Deputy Secretary, Bihar Legislative Assembly with a copy to the Principal Accountant General and Department of Finance, Government of Bihar for its perusal and disposal vide letter dated 29.01.2018 of the Department of Health, Government of Bihar. Subsequently, a detailed compliance of the suggestions/objections pointed out in the said CAG report against the implementation of NRHM scheme based on the performance audit report had been prepared by the respondent-Health Society. The consolidated compliance report against query/objection had been sent to the Department of Health. The Department of Health, Government of Bihar vide letter dated 06.09.2018 sent the compliance report along with desired documents to the Deputy Secretary, Bihar Legislative Assembly with a copy to the Principal Accountant General (Audit) and Department of Finance, Government of Bihar for necessary



action and disposal of objection.

6. It would appear from the record that the petitioner had subsequently raised the issue of payment of excess energy bills to the service provider. In that regard, Khizarsarai P.S. Case No.18 of 2015 was registered against outsourcing agency, Aryabhata Computers. But the SSP, Gaya found insufficient evidence and a final report has been filed. Further, the Civil Surgeon, Gaya had blacklisted Aryabhata Computers along with three other NGOs.

7. Learned counsel appearing for the State has drawn our attention towards the repeated PILs being filed by the petitioner. One such case was CWJC No.14347 of 2014, which was dismissed by a Division Bench presided over by the then Chief Justice vide order dated 23.03.2015. Paras 7 and 8 of the aforesaid order dated 23.07.2015 is being extracted hereunder:-

“7. The present writ petition reveals that the petitioner has an oblique motive to ensure that no one is allotted works and hospitals undergo hardship, even in respect of routine works of cleaning, maintenance and emergency works. It is on account of indiscriminate filing of the writ petitions by the persons like the petitioner, that the conditions of the hospitals are deteriorating further and thus ultimately beneficiaries are the private hospitals.

8. We do not approve the conduct of the petitioner. He is warned not to indulge in such practices. Accordingly, the writ petition is



dismissed. There shall be no order as to costs.”

8. Being aggrieved by the aforesaid order, the petitioner had filed review petition vide Civil Review No.268 of 2015, which was also dismissed vide order dated 03.08.2016.

9. Despite the warning given by this Court in previous writ petition, filing of PILs by the petitioner has gone unabated. He has filed the present PIL on the basis of paper publication for conducting roving enquiry and handing over investigation of case to CBI. In our opinion, this Court is not required to make fishing and roving enquiry merely because the petitioner has made some bald allegations in respect of implementation of NRHM Scheme. This application also appears to have been filed with an oblique motive by the petitioner.

10. The application is dismissed with cost of Rs. 10,000/-(Ten thousand).

(Ashwani Kumar Singh, J)

(Dr. Anshuman, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.07.2022
Transmission Date	NA

