

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2729 of 2023

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1. Koshi Vikas Sangharsh Morcha, Saharsa, through its Patron Shri Pravin Anand, Having its office at Guneshwar Complex, Maharana Pratap Chowk, Near Bal Sangrakshak Office, Police Station- Sadar, District- Saharsa.
 2. Binod Kumar Jha Son of Shri Dinanath Jha, Resident of Uchit Nagar, Nariyar Road, Ward No. 03, Naya Bazar, Police Station- Sadar, District- Saharsa.
 3. Pravin Anand Son of Shri Yadunandan Singh, Resident of villager Durgapur, Ward No. 10, Post- Panchgachia, Police Station- Bihra, District- Saharsa, Bihar, Presently - Patron, koshi Vikas Sangharsh Morcha, Saharsa.

... .. Petitioner/s

Versus

1. Union of India through its Secretary, Ministry of Health and Family Welfare, Government of India, Nirman Bhavan, New Delhi- 110108
2. The Director, PMSSY, Ministry of Health and Family Welfare, PMSSY Division, Government of India, Nirman Bhavan, New Delhi- 110108
3. The Joint Secretary (PMSSY), Ministry of Health and Family Welfare, Government of India, Nirman Bhavan, New Delhi- 110108
4. The State of Bihar through its Principal Secretary, Health and Family Welfare, Department, Government of Bihar, Vikas Bhawan, Bailey Road Patna.
5. The District Magistrate, Saharsa.
6. The Civil Surgeon-cum-Chief Medical Officer, Saharsa.
7. The Additional Chief Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ratan Kumar Singh, Senior Advocate
Mr. Rajesh Kumar Singh, Advocate
Mr. Sumit Kumar, Advocate

For the Union of India : Dr. Krishna Nandan Singh, ASGI
Mr. R. K. Sharma, C.G.C.
Mr. Sriram Krishna, J.C. to ASG

For the State : Mr. P.K. Shahi, A.G .

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)



Date : 09-05-2023

An organization, concerned with the residents of Kosi division within the District of Saharasa and their travails in getting appropriate medical facilities, along with two individuals are before this Court seeking a mandamus to the State of Bihar directing it to consider and accept the proposal of the District Magistrate, Saharsa providing 217.74 acres for the construction of the second All India Institute of Medical Sciences (AIIMS), Super Specialty Hospital-cum-Teaching Institution under the Pradhan Mantri Swasthya Suraksha Yojana (PMSSY).

2. Learned Senior Counsel, who appeared for the petitioners, argued that the PMSSY, which is a scheme of the Central Government has the objective of correcting imbalances in availability of affordable/reliable tertiary level healthcare and augmentation of facilities for quality medical education in different States. It is argued that AIIMS was taken as a model and it was decided that such institute will be established in every State and in Bihar there would be an establishment of another of such institution; since one is already established at Patna. It is the compelling argument of the learned Senior Counsel that though this Court would desist from interfering in policy matters, in the present case, the Government of Bihar has



accepted the proposal and what remains is only identification of the exact location. The location identified by the State of Bihar at Darbhanga does not satisfy the requirements under the Scheme and there is a specific proposal made by the District Magistrate, Saharsa which would satisfy the land requirement as per the scheme. It is thus that the petitioner's request intervention of this Court in expediting the finalization of the proposal made by the District Magistrate, Saharsa since there is already a policy decision taken by the State of Bihar that a second AIIMS like institution should come within the State.

3. The learned Advocate General points out that a requirement under the PMSSY is not confined to the land; availability of which also is scarce within the State of Bihar. Already a decision has been taken and the land has been identified in Darbhanga, but, however, there has to be further deliberations and further conditions to be complied with, before the institution itself materializes. The learned Advocate General would inform us that the State of Bihar is committed to the cause, but the same cannot materialize in a day. It is also pointed out that there were earlier litigations on the same subject, which concludes the matter to an extent and there is no purpose for the present litigation to be entertained.



4. We see from Annexure-2 that as early as in 2015, there was a request made from the Ministry of Health & Family Welfare, Government of India to provide approximately two hundred acres of land at a location required for establishment of one AIIMS like Super Speciality Hospital-cum-Teaching Institution. The letter also requires that the location identified should have road connectivity, availability of water and electricity and it would be the obligation of the State Government to provide free of cost, land and other required infrastructure, including road connectivity, sufficient water supply, electricity connection of required load and regulatory/statutory clearances. The cost of construction and running of the institution would be the sole responsibility of the Central Government under PMSSY. A copy of the prescribed check list was also enclosed which, however, the petitioners chose not to produce before us.

5. In this context, we also have to notice an earlier public interest litigation filed on similar lines for establishment of a second AIIMS within the State by CWJC No.21198 of 2018 titled as Ranjana Kumari v. The Union of India & Ors. Order dated 28.01.2020, extracted letter dated 08.01.2020 from the Ministry of Health & Family Welfare, Government of India



wherein the establishment of a second AIIMS under PMSSY at Darbhanga, Bihar was tentatively approved, subject to certain conditions. The then Advocate General was directed to ascertain the further developments. By order dated 20.02.2020, it was directed that the proposal for construction/widening of road and overhead bridge is to be finalized and an appropriate action taken at the earliest. Eventually, by order dated 07.12.2020, the writ petition was disposed of. The prayers of the writ petitioner were extracted in the said order which sought for establishment of a second AIIMS- like Super Speciality Hospital-cum-Teaching Institution under the PMSSY within the State of Bihar. There was no formal requirement, of such an establishment, to be in a specified location. The Division Bench noticed the earlier order dated 28.01.2020 where there was approval of the situs, Darbhanga, Bihar, in principle and subject to other conditions being complied with. The Division Bench opined that State could take appropriate action insofar as complying with the conditions, in accordance with law and meeting the requirements so as to ensure the establishment of the institute at the earliest. The writ petition was disposed of with the above observations.

6. We are of the opinion that the present writ petition



seeking the establishment of the second AIIMS like institution in Saharsa cannot be now entertained.

7. We also notice the letter issued by the District Magistrate, Saharsa dated 26.08.2017, produced as Annexure-4. It is long after the said letter that the Ministry of Health & Family Welfare, Government of India had issued the communication dated 08.01.2020 which is extracted in the order dated 28.01.2020 of this Court in **Ranjana Kumari** (supra) by which, in principle approval was given to the site at Darbhanga, Bihar. We are of the opinion that there is no purpose served by the above writ petition and there cannot be any claim that the location of an institution established by the Central Government, with the active cooperation of the State Government, should be at one location or the other. It is for the State Government to identify the location and for the Central Government to approve the pointed location. These are all policy matters where this Court would hesitate to interfere in and it involves a lot of deliberations, compliances of requirements and conditions which cannot be precipitated by issuance of a writ of mandamus.

8. We hence close the writ petition, but however with the fervent hope that both the Central Government and the State



Government would expedite the process of the establishment of the second AIIMS within the State, which would definitely inure to the benefit of the residents of the Bihar and would be a major step in providing quality tertiary health care, which also is the object of the PMSSY, as formulated by the Central Government.

9. The writ petition stands closed with the above observations.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	15.05.2023
Transmission Date	

