

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4715 of 2023

Mithilanchal Koshi Vikash Samiti (Registered) Mahadeo Sthan Hatni, District-- Madhubani, through its Chairman namely Shambhu Nath Mishra, male, aged about 70 years, son of Late Tapenand Mishra, Resident of Village-Hatni, P.S.- Ghoghardiha, District- Madhubani, presently residing at B-23 Janyug Apartment, Sector 14, Entu, Rohini, Sector-7, P.S.- Rohini North West Delhi.

... .. Petitioner/s

Versus

1. The State of Bihar the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Health, Government of Bihar, Patna.
3. The District Health Society, , District- Madhubani through its Chairman.
4. The District Magistrate, Madhubani-cum-Chairman, District health Society, Madhubani.
5. The Civil Surgeon-cum-Member Secretary, District Health Society, Madhubani.
6. The Additional Collector, Madhubani.
7. The Sub-Divisional Officer (S.D.O.), Phulparas, District- Madhubani.
8. The Circle Officer (C.O.), Ghoghardiha, District- Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Jha, Sr. Advocate Mr. Pramod Mishra, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, AG

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

5 05-07-2023 Heard Anil Kumar Jha, learned Senior Counsel for
the petitioner and learned counsel for the respondents.

The petitioner has filed the instant application for
the following reliefs:

“i) To direct the higher authority of the



Respondent Department to enquire into the high-handedness and whimsical act of the Respondent Civil Surgeon-cum-Member Secretary, District Health Society, Madhubani (Respondent No.5) who in an arbitrary and influenced manner, got the construction work of Community Health Centre has started at village Belha, Anchal- Ghoghardhiha, District-Madhubani by issuing letter contained in Memo No.429 dated 11.02.2023 addressed to the Respondent authorities concerned, without deciding the issue involved in the matter by way of passing reason and speaking order, in pursuant to order dated 20.01.2023 passed by this Hon'ble Court in C.W.J.C No.865/2023 (P.I.L.) filed by the present petitioner (Mithilanchal Koshi Vikas Samiti); which has already been brought in his knowledge by the petitioner by way of filing his detailed representation dated 30.01.2023 in pursuant to direction of this Hon'ble Court; despite that the Respondent Civil Surgeon got the construction work started completely in arbitrary and malafide manner, not only this, the Respondent Civil Surgeon even did not whisper a single word about the aforesaid order/direction issued by this Hon'ble Court in his aforesaid letter dated 11.02.2023 which clearly shows that how the Respondent Civil Surgeon is acting and discharging his duty in the influence of the some political personal even going to any extent and that too at the cost of overreaching to order passed by this Hon'ble Court and to take suitable disciplinary action against him.

ii) To direct the Respondent authority concerned to



construct/open the proposed community health centre at village-Hatni, Anchal-Ghoghardiha, District-Madhubani as initially proposed and scheme passed by District Society for which even the land had been earmarked at village- Hatni, Anchal-Ghoghardiha in the larger public interest.
iii) To direct the Respondent authority to stop the construction work of the Community Health Centre in question forthwith, till finalization of the issue involved in this writ application.
iv) And/or any other relief/reliefs to which this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.”

Having heard learned counsel for the parties and having perused the materials on record. The facts one gathers is that the petitioner is effected by the start of the construction work of Community Health Centre at village Belha in Anchal Ghogardiha in District- Madhubani. The petitioner seeks a direction to the respondent-authorities to construct the proposed Community Health Centre at village Hatni as initially proposed.

In the opinion of the Court, the issue with respect to the place of construction of a Community Health Centre is in the domain of the respondent-authorities and not for the Courts to direct in exercise of its extra ordinary jurisdiction under Article 226 of the Constitution. It is more in the nature of a policy decision of the respondents with respect to the requirement as also the place of construction of the same.

In the opinion of the Court public interest litigation for the relief prayed for as quoted hereinabove is not



maintainable.

The application is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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