

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10318 of 2019

Manorma Devi Sikaria ANM Training College Radha Nagar,P.O. Motihari
Dist. East Champaran, Bihar, Managed by Radha Krishna Sewa Sansthan
(Trust), through the President of Radha Krishna Sewa Sansthan (Trust),Sri
Shambhu Nath Sikaria,ages about 63 years,Male,S/o Late Radha Krishna
Sikaria,Resident of Radha Nagar,P.O. Motihari,East Champaran,Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary,Department of
Health,Govt. of Bihar,Patna
2. Director-in-Chief,Health Services, Directorate of Health,Department of
Bihar,Department of Health,Patna,Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Mrigank Mauli, Sr. Advocate
For the Respondent/s : Mr. A.N. Jha, AC to SC-18

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 21-08-2023 Heard Mr. Mrigank Mauli, learned senior counsel for

the petitioner and Mr. A.N. Jha, learned AC to SC-18 for the

State.

2. Petitioner in the present case is seeking the
following reliefs:-

“a) For issuance of order/orders,
direction/directions or writ/writs in the nature of
Certiorari quashing the Memo No.95(6) dated
22.01.2019 (Annexure-P/4) issued by the
respondent State whereby the application to grant
permission to start Nursing College at Motihari has
been rejected on the sole ground that the Petitioner
School has not produced evidence of 150 Decimals
of land for the institution as required under Rule 4



of Sub Rule 11 of Nurses Training Recognition Affiliation and Conduct of Examination of School of Nursing Rules, 1997 (hereinafter referred as the Rules).

b) Issue order/orders holding that the Petitioner fulfills the requirement for physical infrastructure as prescribed by the Indian Nursing council vide its Notification F.No. 1-16/2015-INC dated 21.10.2016.

c) Issue writ(s) in the nature of Mandamus directing the respondent to grant permission to the Petitioner to start the BSc (Nursing) Course and take in students for the new Academic Session.

d) For any other relief to which the Petitioner may be entitled to.”

3. Learned senior counsel for the petitioner has questioned the Notification No. 116(6) dated 15.02.2017 issued under the signature of the Officer On Special Duty, Health Department, Government of Bihar (Annexure- ‘P/6’) whereby and whereunder a parameter relating to land for a Nursing Training Course of GNM/B.Sc. Nursing Training College/Post Basic Nursing College/M.Sc. College has been fixed whereunder the petitioner must have 150 decimal of land for starting a B.Sc. Nursing Training College. Learned senior counsel submits that the Indian Nursing Council in the regulatory body has, in exercise of its power under Section 16 of the Indian Nursing Council Act, 1947 (Act No.48 of 1947),



framed a regulation, a copy of which has been enclosed as Annexure- 'P/7' to the writ application. This regulation provides for the requirement of physical facilities.

4. Learned senior counsel submits that for purpose of the physical facility it is this regulation which will guide the Nursing Training Colleges. His submission is that the State Government has not been conferred with any power to fix the parameters relating to land.

5. On the other hand, learned counsel for the State submits that the petitioner has not been granted recognition for running the B.Sc. (Nursing) course because the petitioner does not fulfill the minimum requirement of 150 decimal land. In his submission this is the basic requirement and in this regard learned counsel relies upon Annexure- 'R/1' which is the same and one document which is under challenge by the petitioner.

6. At this stage, learned senior counsel for the petitioner submits that the petitioner has raised these issues by filing a representation as contained in Annexure- 'P/9' to the writ application and he would be satisfied if this writ application is disposed of with a direction to the competent authority in the Department of Health, Government of Bihar to consider his representation as contained in Annexure- 'P/9', examine the



same in the light of his submissions and pass an appropriate order in accordance with law within a reasonable time.

7. Having regard to the submissions noted hereinabove and on finding that the petitioner has already represented his grievance before the competent authority vide Annexure- 'P/9' to the writ application but the same has not been considered, this Court directs the competent authority in the Department of Health, Government of Bihar to look into the grievance of the petitioner, examine the same, if required for any clarity, hear the petitioner and pass an appropriate order considering all aspects of the matter within a period of three months from the date of receipt/production of a copy of this order. Such order shall be communicated to the petitioner forthwith.

8. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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