

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3842 of 2018

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Vikash Chandra Guddu Baba S/o Late Ramashraya Prasad Singh, Presently
residing at Mahatma Gandhi Path, Kurji- Baluper, P.O.- Sadakat Ashram, P.S.-
Digha, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary to the Government of Bihar,
Patna
2. The Principal Secretary, Department of Health, Medical Education and
Family Welfare, Govt. of Bihar, Patna
3. The Director-in-Chief, Health Services, Govt. of Bihar, Patna.
4. The Principal, Patna Medical College Hospital, Patna.
5. The Superintendent, Patna Medical College Hospital, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vikash Chandra Guddu Baba, In Person Mr. Surendra Kumar Singh, Amicus Curiae.
For the Respondent/s	:	Mr. P.K.Shahi, A.G.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-01-2023

Petitioner prayed for the following reliefs:

“(1) to give a direction to the concerned
respondent to make functional all the machinery or
equipments of Patna Medical College & Hospital
(PMCH) in view of under taking of the State Govt.
during the course of hearing of CWJC No. 15045 of
2013 order dated 19.01.2015 as through the reliable
sources it has come in the light at least three
Ventilators are kept in the cartoon from last three to
four years whereas the patients are not been admitted



on the pretext of non availability of sufficient ventilators and are compelled to die.

(ii) for a direction to constitute a committee to enquire into details of condemnation and disposal made after passing of the order of the Hon'ble High Court in CWJC No. 15045 of 2013 order dated 19.01.2015 in PMCH Patna after following the procedure of condemnation and disposal since several important machine/ equipments like TMT Machines, Ventilators are to be declared condem/useless without being made functional.

(iii) any other relief or reliefs for which the petitioner is found entitled in the facts and circumstances of the case.”

During the course of the hearing, the scope of the present petition was confined to the functioning of dialysis machines kept in the Department of Nephrology at the Patna Medical College and Hospital, Patna.

The Superintendent, Patna Medical College and Hospital, Patna (respondent no.5) has filed 2nd supplementary counter affidavit on 24.11.2022 placing on record the exact status with regard to functioning of 31 dialysis machines and posting of adequate human resource, including the doctors, for operating these machines. The relevant portions of the affidavit are extracted as under:-

“8.That it is being further submitted that during discussion in the instant matter, the HOD.



Nephrology, P.M.C.H., Patna being expert of the subject matter also opined that Department of Nephrology and Dialysis are not synonymous to each other. It has been opined that Dialysis is an OPD procedure and one of the modalities of treatment and for this Professors and Associate Professors are not needed to carry out dialysis procedure. It has also been opined that at present two Assistant Professors are working in the Department of Nephrology which are sufficient for overall supervision of the Dialysis process.

9. That it is pertinent to submit here that for optimum use of 31 dialysis machines available at P.M.C.H., Patna a necessary discussion and meeting also took place with the Additional Chief Secretary, Health Department, Government of Bihar and in light of which it has been decided that out of 31 dialysis machines, 5 machines will be reserved or earmarked for those patients suffering from blood & aerosol transmitted disease such as Hepatitis, B.C., HIV and Covid-19 cases and two machines will be kept in standby mode for emergency situations. Here it may be submitted that Hemodialysis of those patients suffering from infected disease such as Hepatitis. B.C., HIV etc. and its maintenance hemodialysis are being done only at Patna Government Medical College and Hospital in government setup.

10. That after discussion with the Additional Chief Secretary, Department of Health, Government of Bihar it has been decided that out of out of 31 dialysis machines, 4 machines will be sent to other



places such 2 machines each for Government Medical College, Samastipur and to Rahui Dental College Multispecialty Hospital at Rahui and the rest 20 dialysis machines will be available for operation at Patna Medical College and Hospital, Patna.

11. That it is being submitted that at least approximately five hours are required in dialysis of one patient and a dialysis machines can at the best be used for the dialysis of two patients in a day in two shifts. In this way it is clear that twenty dialysis machines decided to be used at P.M.C.H., Patna can be used for dialysis of 40 patients in day and for this adequate number of Doctors and Para Medical Staffs have already assigned the duties for proper utilization of 20 dialysis machines to best of its utilities and they have already started the work for dialysis of up to 40 patients per day in two shifts.

In view of the steps taken in making the machines operational and functional, in different Medical Institutions, we close the present proceedings, reserving liberty to the petitioner to- (a) agitate the other and surviving issues in accordance with law; and (b) should the need so arises file a fresh petition even on the issue confined to the functioning of the machines for dialysis in the department of Nephrology at Patna Medical College and Hospital, Patna.

The writ petition stands disposed of in the above



terms.

Interlocutory Application, if any, also stands disposed
of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Sujit/Sunil

AFR/NAFR	
CAV DATE	
Uploading Date	26.01.2023
Transmission Date	

