

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8642 of 2023

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Maa Sharda Health Clinic Located at Supriya Cinema Road Bettiah West Champaran Bihar through its proprietor namely Kedar Prasad aged about 57 years (Male) s/o ram Ayodhyaya Prasad r/o Mohalla Ujjain Tolla, Shanti Nagar, Ward no. 35, P.O. and P.S.- Town Bettiah, Dist- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Health Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Health Department, Govt. of Bihar, Patna.
3. The Civil Surgeon, Bettiah, West Champaran, Bihar.
4. The Chief Medical Officer, Primary Health Centre Bettiah, West Champaran.
5. The Additional Chief Medical Officer, Primary Health Centre Bettiah, West Champaran.
6. The Additional Chief Medical Officer, Primary Health Centre Bettiah, West Champaran
7. The Assistant Chief Medical Officer, Primary Health Centre Bettiah, West Champaran.
8. The District Registration Authority Bettiah, West Champaran established under Rule 12 of Bihar Clinical Establishments (Registration and Regulation) Rules, 2013.
9. Prashant Rajgarhia Son of Late Ajay Kumar Rajgarhia, Resident at B-125/126 Central park, GIDC Pandesara, P.O. and P.S.-Pandesara, District-Surat (Gujrat) at Present resident of Lal Bazar, in Fron of Shahid Park, Bettiah, P.O.-Bettiah, P.S.-Bettiah Town, District-West Champaran, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Y.V Giri Sr, Adv Mr. Vijay Shanker Tiwari, Adv Mr. Sunil Kumar Jha, Adv
For the Respondent/s	:	Mr. Mujtabaul Haque (Gp12) Mr. Pranoy Kumar AC to GP-12

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

4 25-07-2023 Heard learned counsel for the parties.

2. This writ petition has been filed for the following
reliefs:-



(i) To issue a writ/ order/ direction in the nature of certiorari for setting aside letter no. 1321 dated 07.06.2023 by which the functioning of Maa Sharda Health Clinic has been immediately stopped.

(ii) To issue a writ/ order/ direction in the nature of mandamus for a direction to the Respondent Authorities to grant permanent registration as provided under Bihar Clinical Establishments (Registration & Regulation) Rules, 2013.

(iii) To issue a writ/ order/ direction in the nature of mandamus for a direction to the Respondent Authorities to take decision on the application for permanent registration dated 25.01.2023 in accordance with Bihar Clinical Establishment (Registration & Regulation) Rules, 2013

(iv) To issue a writ/ order/ direction in the nature of mandamus for a direction to restrain the Respondent Authorities from taking any adverse/ coercive action or steps against the petitioner in relation to running the clinic.

(v) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstance of the case.

3. Even though the counsels appearing on both sides of the parties have argued at length on the merits of the case.



This Court is not inclined to go into the merits for the sole reason that the order impugned is passed without following the principles of Natural Justice and equity.

4. A perusal of the impugned order passed by the authorities reveals that no show cause notice was issued to the petitioner before passing the Impugned order or calling for an explanation, the authority concerned has suspended the provisional registration issued in favour of the petitioner solely based on the complaint filed by the respondent no. 9. The passing of the order is in violation of the principles of natural justice and equity. On this ground alone the Impugned order is liable to be set aside.

5. The authority is obligated under law to provide an opportunity to the person by issuing him a show cause notice and calling for an explanation before passing any adverse order. Having regard to the above, the impugned order is set aside and the matter is remitted back to the authorities concerned for passing an appropriate order after giving an opportunity of hearing to all the parties. The authority concerned shall examine as to whether the Respondent no. 9 has an locus to approach the authority by filing a complaint against the granting of Provisional Registration and also for renewal of the Provisional



Registration when this Hon'ble High Court has already dismissed the CWJC filed by him with cost. The entire exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

6. As it is stated by the counsel for the petitioner that they have applied for renewal of the Provisional Registration even before the date of expiry. The authorities concerned shall pass necessary orders on the said application made by the petitioner for renewal of his provisional license.

7. Till such time, the authorities pass orders, the petitioner shall not run his "Maa Sharda Health Clinic" as the provisional registration certificate has already expired and not renewed as on date.

8. With the above directions, the present writ petition stands is allowed to the extent indicated.

(A. Abhishek Reddy , J)

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