

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15189 of 2023

Ashok Kumar Mahto, Male, aged about 66 years, Son of Late Yamuna Mahto, resident of Mahallah Bag Dulhan near Unjara Homeopathic clinic, Ram Balak chouk, P.O. Hajipur, P.S.-Hajipur Nagar, District-Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Health, Govt. of Bihar, Patna.
2. The Principal Secretary, Dept. of Health, Govt. of Bihar, Patna.
3. The Director in Chief, Health Service, Bihar, Patna.
4. The Director-in-Chief, National Disease Health and Para Medical Health Service, Bihar, Patna.
5. The Regional Deputy Director, Health Service, Tirhut Division, Muzaffarpur.
6. The Civil Surgeon-cum-Chief Medical Officer, Vaishali, Hajipur.
7. The Additional Chief Medical Officer, Vaishali, Hajipur.
8. The District Magistrate, Vaishali.
9. The Treasury Officer, Vaishali, Hajipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Vasant Vikas, Advocate Mr. Pranoy Kumar, Advocate
For the State	:	Mr.Rajeshwar Singh (Ga 10) Mr. Jitendra Kumar, AC to GA 10

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 06-11-2023

Heard Mr. Vasant Vikas along with Mr. Pranoy Kumar, learned counsel appearing on behalf of the petitioner; Mr. Rajeshwar Singh, learned GA 10 along with Mr. Jitendra Kumar, AC to GA 10 for the State.

2. Petitioner is aggrieved by the order, contained in memo No.279 dated 04.08.2023 (Annexure 5), passed by the Civil Surgeon-cum-Chief-Medical Officer, Vaishali, Hajipur, who without giving reason with respect to the appointment of



the petitioner and his service particulars, has taken a decision that the appointment of the petitioner is illegal, in light of the orders, which have been passed by the Director-in-Chief, Health Services, State of Bihar and the Additional Director, Health Services, Tirhut Division, Muzaffarpur, with respect to some other employee, whose writ petition is pending before this Court.

3. It is the case of the petitioner that no opportunity of hearing was given to him and therefore the order, referred to above, being violative of principle of natural justice, is fit to be set aside and quashed.

4. Learned counsel appearing on behalf of the State submits that initial appointment of the petitioner, being not in accordance with law, the order does not require to be interfered with, however, he admits that the minimum opportunity of hearing must have been granted to the petitioner by the Civil Surgeon.

5. Considering the rival submissions made on behalf of the parties, the order impugned, as contained in Memo no.279 dated 04.08.2023, passed by the Civil Surgeon-cum-Chief-Medical Officer, Vaishali, Hajipur (Annexure 5) being non-speaking and without granting any opportunity of hearing. The



order is also without any specific reason as to why the initial appointment of the petitioner has been held by him to be illegal in want of any evidence on record, is, hereby, set aside and quashed.

6. The Additional Chief Secretary, Health Department, State of Bihar is directed to call for the service particulars relating to the petitioner and decide, as to whether, the initial appointment of the petitioner was either irregular or illegal on the basis of forged document or certificate. In case, the petitioner’s appointment is found to be irregular, then, in that case, he may pass a necessary order in accordance with law laid down by the Apex Court in the case of **Secretary, State of Karnataka and others Versus Uma Devi and others, reported in (2006) 4 SCC 1**, the case of the petitioner is required to be considered and a reasoned order shall be passed.

7. With aforesaid observation and direction, the writ petition stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.11.2023
Transmission Date	NA

