

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.70 of 2023**

National Health Mission Employee Association Bihar through its General Secretary Md. Javed Akhtar aged about 43 years (Male) son of Md. Jamil Akhtar Resident of Ward No. 28, Azad Colony, Islampur, Katari, Gaya, Bihar- 823001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health and Family Welfare Department, Government of Bihar, Patna.
2. The Principal Secretary Health cum Chief Executive Officer, State Health Society, Bihar, Pariwar Kalyan Bhawan, Sheikhpura, P.S.- Shashtri Nagar, Patna- 800014
3. The Joint Secretary, Health and Family Welfare Department, Government of Bihar, Patna.
4. The Executive Director, State Health Society, Bihar, Pariwar Kalyan Bhawan, Sheikhpura, P.S.- Shashtri Nagar, Patna- 800014
5. The Deputy Secretary, State Health Society, Bihar, Pariwar Kalyan Bhawan, Sheikhpura, P.S.- Shashtri Nagar, Patna- 800014

... .. Respondent/s

**Appearance :**

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| For the Petitioner/s | : | Ms. Roona, Advocate             |
| For the Respondent/s | : | Mr. Madhusudan Rai, AC to SC-23 |
| For the Resp. No.4   | : | Mr. K.K. Sinha, Advocate        |

**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI**  
**ORAL ORDER**

4      07-05-2024                      Heard learned advocate for the petitioner and learned counsel for the State.

2. The petitioner is an association represent by its General Secretary, Md. Javed Akhtar. It is contended by the petitioner that some members of the petitioner association have been newly appointed as Community Health Officer in different districts of Sate of Bihar. The past record of the employees who are members of National Health Employee Association shows



that the employees were posted in their home districts after completion of training as Community Health Officers. However, in case of the employees, who are newly appointed and were scheduled to be posted vide order dated 07.01.2021 it is found that the said employees were posted in places other than their home districts. It is contended on behalf of the said employees that transferability of a job is an incident of public service. However, there was no rational of the policy of posting in respect of the employees without formulating any policy the members of the petitioner association were transferred different places away of their home district. This prompted the association in representative capacity to file the instant writ petition.

2. It is submitted by the learned advocate on behalf of the petitioner that the Community Health Officers are contractual employees under the Health Department in a scheme of National Health Mission (NHM). It is also submitted by the learned advocate for the petitioner that they are getting remuneration of Rs.25,000/- with maximum incentives of Rs.15,000/- per month at such amount it is not possible for them to run their livelihood at some distant place away from their home district. It is also contended that previously all



Community Health Officers were posted in their respective home districts. Therefore, the newly recruited employees had a legitimate expectation the day would also be posted in the home district. However, this has not been done by the authority concerned.

3. Learned advocate on behalf of the State Health Society, on the other hand, submits that the Community Health Officer are posted only after compliance of certain pre-requisites, like they should successfully completed the course from Indira Gandhi Open National University and at the time of their employment they required to execute a bond to the effect that they may be posted and transferred to any place in the State of Bihar after completion of successful training and six months. The members of the petitioner association were posted to different places in the State of Bihar. Such posting was in accordance with the bond executed by each of the employees.

4. However, it is submitted by the learned counsel for the State Health Society that the petitioner submitted two representations being Annexure-4 and 5 of the instant writ petition to the Executive Director, State Health Society, Bihar. Their representations has not been considered. Therefore, the Executive Director, State Health Society, Bihar (respondent



No.4) may be directed to dispose of the representations (Annexure-4 & 5 of the instant writ petition) in accordance with law within a certain period of a time and may take final decision in respect of the transfer of Community Health Officers.

5. Having heard the learned counsels for the parties, the instant writ petition is disposed of directing the respondent no.4 to dispose of the representations being Annexure-4 & 5 of the instant writ petition within six week's from the date of communication of this order. After giving opportunity to the petitioner association of being heard.

6. With the above direction, the instant writ petition is disposed of.

**(Bibek Chaudhuri, J)**

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