

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1966 of 2018

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Gopal Kumar, /o late Ram Kumari Devi, resident of Village + P.O. Deep Nagar, P.S. -Deep Nagar, District Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar through the District Magistrate, Nawadah having his office at Collectorate Compound Nawadah.
2. The Director Health Department having his office at Vikash Bhawan, P.S. -Sachivalaya, District -Patna.
3. The Chief Medical Officer cum- Civil Surgeon, Sadar Hospital, Nawadah.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vikas Mohan, Advocate
For the Respondent/s	:	Mr. Rajeshwar Singh- GA10
		Mr. Jitendra Kumar, AC to GA-10

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 24-01-2025

Heard learned Sr. Counsel for the petitioner and learned counsel for the State.

2. The present Writ Petition has been filed to partly quash the recommendation for rejection of the petitioner's appointment on compassionate grounds, as mentioned in column 22 of the proceedings held on 18.12.2015 by the District Compassionate Committee (as contained in Annexure-1 to the Writ Petition), which rejected the petitioner's claim.

3. Learned Senior Counsel for the petitioner submits that the petitioner is claiming succession by virtue of a



Succession Certificate issued in Succession Case No. 03/2014, dated 21.01.2015. In this case, Exhibit-1 was produced before the Court, which includes a plea for adoption made in the presence of the petitioner's alleged adoptive mother, as well as the petitioner's natural mother and father. Based on this, the Court acknowledged the petitioner as the heir and legal representative of Ram Kumari Devi, and the petitioner has received claims accordingly.

4. Counsel for the petitioner further submits that this aspect was acknowledged by this Hon'ble Court in its order dated 19.12.2022, passed in the present Writ Petition, which directed the District Magistrate, Nawada, to file a counter-affidavit. Learned Senior Counsel also submits that, in compliance with the said order, the District Magistrate has filed an affidavit stating that the petitioner is seeking appointment to a Class III/IV post in the Nawada district on compassionate grounds following the death of his maternal grandmother, Ram Kumari Devi, on 02.03.2013, while she was serving as an ANM at the Primary Health Centre, Roh (Nawada).

5. The affidavit further states that the petitioner has not produced a valid deed of adoption from the deceased employee in accordance with the provisions of the Hindu Adoption and



Maintenance Act, 1956. This is necessary for consideration and appropriate decision-making by the District Compassionate Committee, Nawada, in line with the departmental guidelines specified in Letter No. 512, dated 12.05.2005. Despite repeated directions, the petitioner has only provided an affidavit dated 19.08.1992, which is insufficient to support the claim for compassionate appointment.

6. Learned counsel for the petitioner further submits that Succession Case No. 3/2014 (Annexure-3 to the Writ Petition) is a judicial order which has been made by a District Judge and the District Magistrate being an Executive Officer cannot ignore the judicial decision which has been passed after adjudication and the same has been timely communicated to him.

7. Learned counsel for the State, on the other hand, submits that the District Magistrate's pleading is clear and unequivocal. At the cost of the repetition, he contends that the document in question is merely an affidavit, not a registered deed of adoption. Additionally, he points out that the alleged adoption document was prepared in 1992, while the petitioner passed his matriculation in 2001 and, in his certificate, used the name of his natural father rather than the adoptive father.



Therefore, according to the counsel, the adoption has not been acted upon.

8. After going through the pleadings and hearing the arguments canvassed by learned counsel for the parties, this Court finds that the stand taken by the Collector is incorrect. Merely presenting an affidavit of the deceased employee instead of a registered deed of adoption does not invalidate the claim, as there is no prescribed format under the Adoption and Maintenance Act. In this case, the affidavit was prepared in the presence of the adoptive mother, natural mother, and natural father. Furthermore, the document was examined by the District Judge in Succession Case No. 03 of 2014 by giving categorical finding. The District Judge, after considering the affidavit, acknowledged it as Exhibit-1 and held that the petitioner is the heir and legal representative of Ram Kumari Devi. However, it is also true that the petitioner has continued to use the name of the natural father in the certificate.

9. In this background, I left it open for the District Compassionate Committee to consider the case of the petitioner afresh. It is directed that the District Magistrate shall verify the family status of the petitioner and on seeing the family status shall take a decision in the light of the observation made above.



10. Therefore, the decision of District Compassionate Committee relating to petitioner as mentioned in column 22 of the proceeding dated 18.12.2015 is hereby quashed.

11. The fresh decision shall be made by the District Compassionate Committee within 90 days from the date of production of a copy of this order.

11. With the aforesaid observation and direction, the Writ Petition stands disposed off.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31/01/2025
Transmission Date	NA

