

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8384 of 2018

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Mukesh Kumar Son of Late Baidya Nath Singh, Resident of at and P.O.-
Madhurapur, P.S.-Teghra, District-Begusarai.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Chief Secretary, Govt. of Bihar, Patna,
3. The Principal Secretary, Health Department, Govt. of Bihar, Patna.
4. The Director-in-Chief, Health Services, Govt. of Bihar, Patna.
5. The Pharmacy Council of India through its Chairman, New Delhi,
6. The Registrar-Cum-Secretary, Pharmacy Council of India, New Delhi.

... .. Respondents

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Appearance :

For the Petitioner : Mr.Prashant Sinha, Advocate
For the Respondents : Mr.Bibhuti Kumar, AC to AG

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

8 09-12-2019

The petitioner has prayed for following reliefs:-

“(i) For issuance of necessary direction upon the respondent authorities to not to allow any person other than a registered Pharmacist to compound, prepare, mix or dispense any medicine on the prescription of any medical practitioner because in various Govt. Hospitals, the persons, who are not a registered Pharmacist have been allowed to discharge the function of a Pharmacist inasmuch as at some places, even the Clerks, ANMs, Staff Nurse etc. have been assigned with the duty to be performed only by a registered Pharmacist.

(ii) For holding that by allowing a non-pharmacist to discharge the duty and responsibility of Pharmacist, the respondent authorities are not only violating the provisions of the Pharmacy Act, 1948 as well as Pharmacy Practices Regulation, 2015 but they are also



playing with the health of the concerned patients.

(iii) For issuance of necessary direction upon the respondent authorities to implement the Pharmacy Practice Regulation, 2015 framed by the Pharmacy Council of India in exercise of powers conferred under Section-10 & 18 of the Pharmacy Act, 1948, inasmuch as the said Regulation provides for creation of various types of posts with diverse types of responsibilities for regulating the profession of Pharmacy so that the quality of health care may improve, the Pharmacist may maintain high standard in their duty, the cost of health care may reduce and the criminal abuse of medicines may be stopped.

(iv) For holding that the Govt. of Bihar has not created an post except for the post of Pharmacist under the Pharmacy Practice Regulation, 2015 and as such, the respondents may be directed to create such posts and appoint eligible persons on such posts so that the objectives of the Pharmacy Practice Regulation, 2015 may be achieved.

(v) For necessary direction upon the respondent authorities to constitute an Enquiry Committee in terms of Section-45(5) of the Pharmacy Act, 1948 to enquire into the functioning of the Bihar State Pharmacy Council because the Bihar State Pharmacy Council is not functioning in accordance with the provisions of the Pharmacy Act, 1948 and Pharmacy Practice Regulation, 2015 inasmuch as the Bihar State Pharmacy Council is involved in grant of fake and illegal registration to the fake Pharmacists.

(vi) For any other direction, which your Lordships may deem fit and proper in the facts and circumstances of the case.”

The main grievance being that such of those persons, who are ineligible, stand registered with Bihar State Pharmacy Council.

Having heard learned counsel for the parties, we are of the considered view that the interest of justice only mandates



the petitioner, after verifying each case individually inviting attention to such illegality either to the Bihar State Pharmacy Council or the State of Bihar.

At this stage, learned counsel for the Bihar State Pharmacy Council states that the fact-finding committee was constituted and its report already forwarded to the State Government.

As such, we dispose of the writ petition.

We clarify that only such those persons, who are eligible and fulfill the requisite conditions, can be registered with the Bihar State Pharmacy Council.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

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