

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20444 of 2014

Indian Association Of Pathologists And Microbiologists
... .. Petitioner/s
Versus
The State Of Bihar and Ors
... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Md. Shamimul Hoda, Advocate
For the Respondent/s : Mr. Prashant Pratap, G.P. 22
For the Intervenor : Mr. Y. V. Giri, Senior Advocate
Mr. Sumit Kr. Jha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

31 09-12-2019 On 30th August, 2018 as also on 2nd July, 2019, taking notice of the fact that in the State of Bihar, Pathological Laboratories/Diagnostic Centres/ Clinics/Nursing Homes had mushroomed illegally, and were functional without compliance of the provisions of the Clinical Establishment Act, 2010; Clinical Establishment (Central Government) Rules, 2012/2018, as applicable to the State of Bihar and the Bihar Clinical Establishment Rules, 2013, this Court had directed closure of all such establishments.

From the response filed by the State, we only notice that the approach adopted is perfunctory meant only to favour these establishments, rather than help the poor people in getting proper, complete and correct diagnosis and treatment in the



State of Bihar. Save and except, for issuing notice to show cause, no action of closing such establishments stands taken by the authorities. Noticeably, even the Council mandated under the Statute/Rules has not been constituted till date. Why so? no reason stands furnished by the authorities. This unlawful running of unauthorized Pathological Centres/Laboratories /Institution and Establishment is perhaps leading to faulty diagnosis and treatment of the patients. At the first instance, there is no explanation why these Laboratories are allowed to be established. Save and except for registering an FIR, and that too against one isolated person, we notice no concrete action to have been taken in enforcing the provisions of law, which the State is otherwise duty bound to do so, more so, when it is a settled principle of law that right to medical health is a constitutional right.

109 sub-standard pathological Centres/ Diagnostic Centres are reported to be illegally functioning in the Districts of Aurangabad, Saran (Chhapra), Munger, Samastipur, Banka, Khagaria, Jehanabad, Madhepura, Bettiah and Sheikhpur. The position with regard to other districts is as pathetic as it can be. Who is responsible for all these mess? Why is the State playing with the lives of the residents of the State? Why does that the



Bihar State Para Medical Council remain unestablished?

On a pointed query put to Shri Prashant Pratap, learned Government Pleader-2, we are informed that now a decision has been taken to establish Bihar State Para Medical Council and that the matter is yet pending approval with the State Cabinet. Again on a pointed query as to how much time it would take for the Council to be approved, the answer is six months. We see no reason as to why, specially when life of people is involved, action cannot be taken promptly. We see no reason as to why action cannot be fast tracked, more so, when we notice that the provisions of the Act and the Rules enacted in the year 2010/ 2012/2018, remained unforced as also this Court, way back in August, 2018 had cautioned the authorities and directed them to take necessary action.

As such, we are left with no option, but to summon the Principal Secretary, Health Department, Government of Bihar. List on 16.12.2019 when the said Officer shall remain personally present.

Also we direct the Health Department, Government of Bihar, Patna to publish a full fledged advertisement in the daily newspapers, both English and Vernacular, informing the general public of all the directions issued by this Court vide orders dated



30th August, 2018 and 2nd July, 2019, directing closure of all such illegal establishments in the State of Bihar. Also wider publicity be given in both print and electronic media, asking the people to get avail facilities only in such of those Laboratories/ Institutions which stand recognized by the authorities constituted under the Act/ Rules etc. This shall positively be done immediately and not later than one week from today.

List on 16.12.2019.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

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