

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.301 of 2022**

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Mukesh Kumar

... .. Petitioner/s

Versus

The State of Bihar & Ors.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s	:	Mr.Vijay Kumar Singh, Advocate Mr. Abhinav Shandilya, Advocate Mr. Ashish Giri, Amicus Curiae
For the Respondent/s	:	Mr.Lalit Kishore (AG)
For Respondent No.8		Mr. S.D. Sanjay, Sr. Advocate Mrs. Parul Prasad, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**and**  
**HONOURABLE MR. JUSTICE S. KUMAR**  
ORAL ORDER

**(Per: HONOURABLE THE CHIEF JUSTICE)**

5      05-04-2022                      Inviting our attention to the provisions of The Clinical Establishments (Registration and Regulation) Act, 2010, as also the Rules framed by the Government of Bihar termed as “Bihar Clinical Establishments (Registration and Regulation) Rules, 2013, it is contended that the appropriate authority constituted under Section 12 of the Act is fully empowered to take action against any clinical establishment so defined under Sub-Rule (e) of Rule-2 for not maintaining the standards prescribed under Section 12 of the Act. What are the standards which such a clinical establishment is required to maintain, is defined under Sub-Rule (L) of Rule-2.



Noticeably, in terms of Section 12 of the Act, the Central Government itself has framed Rules termed as the Clinical Establishment Central Government Rules, 2012 prescribing such standards.

We also notice that the State Government has compensated monitorily, such of those persons who suffered on account of purported negligence on the part of the respondent hospital in performing the Eye (Cataract) Operations.

We also notice that the authorities have already registered an F.I.R., No.306 of 2021 dated 02.12.2021 at Brahmpura Police Station, Muzaffarpur which is pending investigation.

Having given our thoughtful consideration, the respondent establishment must respond not only to the averments made in the writ petition, but also the issues highlighted by the learned Amicus Curiae, indicating by way of an affidavit, compliance of all the statutory provisions and more specifically, pertaining to the fulfilment of the standards as defined under the Rules.

Ordered accordingly.

We are also of the considered view that



investigation needs to be expedited.

We may not be misunderstood to have expressed any opinion on merits, in emphasizing that at least 19 persons, who had undertaken cataract surgery in the camp organized by the clinical establishment, had lost eye-sight of one of their eyes.

In this backdrop, we direct the Sr. S.P., Muzaffarpur to ensure that the investigation is expedited and concluded at the earliest. He shall file his personal affidavit indicating the latest status before the next date.

We are also of the considered view that the Additional Chief Secretary, Health Department, Government of Bihar, should constitute a fresh committee of experts, perhaps, comprising of doctors of premier institutions like AIIMS, Patna, PMCH, Patna and Rajendra Nagar Hospital, Patna for not only undertaking the task of reviewing the report submitted by the local doctors posted at Muzaffarpur dated 29<sup>th</sup> of November, 2021, but also suggesting as to what further course of action should be adopted for ensuring proper treatment of the patients who lost their eye-sight.

Let needful be positively done within two weeks



and report be submitted within four weeks thereafter.

Needless to add, it would be open for the Committee to interact with all concerned, including the doctors who had carried out the operation and those who had prepared the report.

Shri S.D. Sanjay, learned Sr. Counsel appearing on behalf of newly added respondent, states that response on behalf of the newly added respondent shall be filed within four weeks.

List on 17<sup>th</sup> of May, 2022.

**(Sanjay Karol, CJ)**

**( S. Kumar, J)**

K.C.Jha/-DKS

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