

Patna High Court - Orders

Kanchan Devi vs Union Of India on 20 February, 2020

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3724 of 2020

=====  
Kanchan Devi W/o Sanoj Tiwari, R/o Vill - Babhanauli, P.S. Ratanpur, Di  
Bhojpur Bihar-802312.

... .. Petition

Versus

1. Union of India through its Secretary National AIDS Control Organization  
9th Floor, Chandralok Building, Janpath, New Delhi.
2. Principal Secretary, Department of Health, Bihar.
3. Principal Secretary, Department of Social Welfare, Bihar.
4. The District Magistrate, Arrah.
5. The Chief Medical Officer cum Civil Surgeon, Arrah.
6. The Secretary, Ministry of Health and Family Welfare, Government of India  
New Delhi.
7. The Project Director, Bihar State AIDS Control Society, Sheikhpura, Patna
8. The Nodal Officer, Anti - Retroviral Therapy (ART) Center, Arrah.
9. The Superintendent, Sadar Hospital, Arrah.

... .. Respondent/s

=====  
Appearance :

For the Petitioner/s	:	Mr. Deepak Kr. Singh Mr. Akash Keshav
For the State	:	Mr. Ajay Behari Sinha (Ga8)
For the U.O.I.	:	Mr. Anshuman Singh, CGL, UOI

=====  
CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE) 2 20-02-2020 Petitioner has prayed for following relief:-

"(i) To issue writ order/direction in nature of mandamus directing the Respondents particularly, Respondent Nos.3 to 5 and 7 to forthwith immediately appoint at least one qualified MBBS doctor and a nurse at the Anti-Retroviral Therapy (ART) Center, Arrah as per the provisions of the section (s) 13 and 14 of the "Human Patna High Court CWJC No.3724 of 2020(2) dt.20-02-2020 Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017" because the above said ART center is running without a qualified doctor and nurse and the ARV Medicines and Opportunistic Infection (O.I.) Medicines are being distributed without the prescription or in consultation with an M.B.B.S. Doctor from the last two years.

(ii) To issue writ order/direction in nature of mandamus directing the Respondents particularly, Respondent No.1, 3, 5, 7 and 8 to ensure that the CD 4 machine installed at Anti- Retroviral Center, Arrah is functional and there is no stoppage or hindrance in the CD4 test of the patients as presently, the CD4 tests of the patients at the center are not being conducted from last two months.

(iii) To issue writ order/ direction in the nature of mandamus directing the Respondents, particularly, Respondent No.1, 3, 5, 7, 8 and 9 to ensure and maintain continuous supply of Anti - Retroviral (ARV) drug / medicines and Opportunistic Infection (O.I.) Medicines in accordance with directions issued by the Hon'ble Court under Orders dated 15.07.2014 and 12.08.2014 passed in C.W.J.C. No.5440 of 2011: Sanjit Singh @ Sanjeet Singh Vs. the Union of India and Ors.

(iv) To issue writ order / direction in the nature of mandamus directing the Respondents, particularly, Respondent No.1, 3, 5, 7, 8 and 9 to ensure and maintain continuous supply of Pediatric Anti- Retroviral Medicines which is currently not available from past several months.

Patna High Court CWJC No.3724 of 2020(2) dt.20-02-2020

(v) To direct the Respondent No.2 to set up an independent enquiry committee under an officer not below the rank of Secretary of the Department of Health, Govt. of Bihar to assess and analyze the condition of ART Centers in all over the State of Bihar and submit its report to this Hon'ble Court.

(vi) To direct Respondent No.1, 2 & 7 to ensure the implementation of the "Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017" in its true letter and spirit in the State of Bihar. And / or

(vii) May provide any other relief that this Hon'ble court deems fit in the public interest." After the matter was heard for some time, learned counsel for the petitioner submits that petitioner shall be content if a direction is issued to the concerned respondents to consider and decide the representation, which the petitioner shall be making afresh within a period of four weeks from today.

Learned counsel for the State states that upon receipt of such request, if any, the same shall be dealt with in accordance with law, expeditiously and positively within a period of three months from the date of receipt thereof.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available Patna High Court CWJC No.3724 of 2020(2) dt.20-02-2020 in accordance with law, including approaching this Court by filing a fresh writ petition with fresh cause of action.

We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law

and with reasonable dispatch.

The petition stands disposed of in the aforesaid terms.

(Sanjay Karol, CJ) ( S. Kumar, J) Sanjay/-

U