
(2011) 07 PAT CK 0284

Patna High Court

Case No: CWJC No. 9158 of 2011

Navin Kumar

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision: July 4, 2011

Acts Referred:

- Constitution of India, 1950 - Article 14, 21

Citation: (2011) 4 PLJR 122

Hon'ble Judges: Samarendra Pratap Singh, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

Samarendra Pratap Singh, J.

The petitioner seeks a direction to the respondent authorities to provide him free medical aid and perform operation of his left arm.

2. This case was filed on 19.5.2011. On the prayer of the petitioner's counsel on 28.6.2011 the case was directed to be listed within top ten cases on 4.7.2011. Counsel for the petitioner was asked to inform the State Counsel about the out of turn mentioning of the case.

3. The case relates to unfortunate section of society who are considered to be out-caste and non-touchable. The petitioner and his wife contacted HIV disease while working in" Ludhiana. In November, 2009 on their way to Patna, the petitioner sustained fracture injury in his left arm. On arrival at Patna, the petitioner got first-aid only. The wife of the petitioner died of HIV disease in the month of May, 2010. The petitioner got himself admitted in the P.M.C.H. for necessary operation of fractured arm, which had not healed. The attending Doctor, namely, Dr. R.N. Suman got some clinical tests done. The petitioner was advised for operation, but as he could not meet the cost of ancillary expenses involved in operation, he had to quit.

After arranging money, the petitioner got himself admitted in Trauma Ward, P.M.C.H. on Bed No. 26 in Dr. R.N. Suman unit bearing registration no. 01150 dated 17.2.2011. However, on 4.3.2011 the petitioner was discharged without operation as the authorities found that he was suffering from HIV.

4. The petitioner submits that he has even filed an affidavited complaint before the Respondent No. 5 as contained in Annexure-5.

5. Having heard counsel for the parties, this court is of the view that a patient cannot be denied treatment in Government Hospital on the ground that he has contacted HIV. The person coming for treatment is patient and there cannot be further classification amongst the patients on the ground of being HIV affected. Any such approach would be against the constitutional mandate of Article 14, providing for equal treatment, and Article 21 of the Constitution of India.

6. Article 21 states that no person shall be deprived of life or personal liberty which would include right to proper medical treatment in order to lead a dignified life.

7. The petitioner who is HIV patient needs operation of his fractured right arm which has remained unoperated since November, 2009. The authorities cannot refuse to perform operation on the ground that the petitioner is HIV patient. It will be open for the attending Doctors and staff to take all precautions while performing the operation to avoid feared infections. In case the petitioner appears before the Superintendent, Patna Medical College & Hospital with detailed representation, the latter would direct for his admission in the P.M.C.H. for necessary treatment. It goes without saying that the petitioner would also abide by the rules of the Hospital.

8. With the aforesaid observations and directions, this writ petition stands disposed of.