

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.5609 of 2020**

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Parul Prasad, aged about 29 years, (female) W/o Shri Rakesh Prashant,  
resident of Bihari Kunj, Makhania Kuan, Patna, P.S. Pirbahore,  
District-Patna.

**Petitioner**

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Main Secretariat, Patna.
2. The Principal Secretary, Home Department, Government of Bihar, Main Secretariat, Patna.
3. The Principal Secretary, Department of Social Welfare, Government of Bihar, Main Secretariat, Patna.
4. The Director General of Police, Government of Bihar, Patna.
5. The Union of India through the Cabinet Secretary, Cabinet Secretariat, New Delhi.
6. The Secretary, Department of Home Affairs, Government of India, New Delhi.
7. The NITI Aayog through its Chief Executive Officer, Sansad Marg, New Delhi.
8. The Chief Executive Officer, NITI AAYOG, New Delhi.
9. The Director, Social Welfare, Government of Bihar.
10. The District Magistrate, Darbhanga.
11. The District Magistrate, Patna.
12. The Secretary, Disaster Management, Government of Bihar.

**.....Respondents.**

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**Appearance:**

For the petitioner/s : Ms. Parul Prasad (in person)

For the State (respondent Nos.1 to 4 and 9 to 12)

: Mr. P. N. Shahi, Senior Advocate  
(AAG-6)  
Mr. Patanjali Rishi, AC to AAG-6

For the Union of India (respondents 5, 6,7, 8)

: Mr. S. D. Sanjay, ASG  
Mr. Ratnesh Kumar, CGC

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**CORAM: HONOURABLE THE CHIEF JUSTICE  
AND  
HONOURABLE MR. JUSTICE S. KUMAR**

**Oral Order**

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

**4. 27.04.2020**

Dr. Muniraju Sonnur Beerappa, Deputy Advisor, NITI Aayog, has filed a composite affidavit on behalf of respondent nos. 5 to 8. Sri S. D. Sanjay, learned Additional Solicitor General, states that there is a correction to be made in one of the Annexures annexed thereto.

Shri Prashant Mishra, Assistant Director, Social Welfare Department, Government of Bihar, Patna has filed a composite affidavit on behalf of respondent nos. 1 to 4 and 9 to 12.

The matter was heard for some time.

Prayer made on behalf of the writ petitioner for filing a supplementary affidavit dealing with not only the averments made in the responses, but also placing on record additional and fresh material in support of the petition, is allowed. Let needful be positively done on or before 28<sup>th</sup> April, 2020 with an advance copy supplied to learned counsel appearing for the respondents.

Considering the sensitivity of the matter, we are of the view that the responses must be filed by the Chief Secretary, Government of Bihar, respondent no.1, for and on behalf of respondents no.1 to 4 and 9 to 12, and by the Secretary, Department of Home Affairs, Government of India, New Delhi, respondent no.6, for and on behalf of Central Government/NITI Aayog.

They shall file such affidavits by 30<sup>th</sup> April, 2020. We clarify that all averments made by the petitioner in the writ petition and the supplementary affidavit as also the averments made in the affidavits already filed by the respondents shall be dealt with afresh. The affidavit should be self speaking and not just an index containing annexures.

At this point in time, it could not be ascertained as to whether the representations of various members of Civil Societies/NGOs/CSOs stand decided in terms of our order dated 23<sup>rd</sup> April, 2020 or not. As such, we direct that needful be positively done within next 24 hours.

The issue highlighted is of vital importance and significance. Noticeably, the State claims no obligation to comply with the directions/instructions/advisories issued by the NITI Aayog, allegedly issued for and on behalf of the Government of India, but relies upon its own mechanism adopted by way of Regulations.

Well, at this stage, we need not say anything further, save and except, that the role of Civil Society, be it in the form of individuals/CSOs/NGOs, in helping the orphans; elderly persons; and specially challenged persons, cannot be undermined. Public and private

participation, of the good Samaritans to overcome natural disasters and adversities is not alien to the culture and heritage of this great nation. Also Practices and teachings of Lord Buddha and Lord Mahavira are well entrenched in the State of Bihar. One cannot forget the importance and significance of the Directives Principles of State Policy, Part IV, (Article 39) and Part IV-A Fundamental duties, more specifically, (Article 51-A (h)) of the Constitution of India, while dealing with the problems arising out of the Pandemic Corona Virus (COVID-19).

For enforcing rule of law, the role of the Civil Society stands fully acknowledged by Hon'ble the Apex Court in *Public Union for Civil Liberties Versus State of T.N. and others*, (2004) 12 SCC 381, as under:-

**5.** In modern days civil society is playing a greater role in nation-building exercise. The commendable roles played by NGOs in very many situations strengthen the confidence of general public in NGOs. The State may not always be in a position to reach out to the needy. As we have experienced in the past, civil society could efficiently fill up this gap. Now it is time for more interaction between civil society and State machinery in implementing social-service schemes. The services of philanthropic organisations or NGOs could very well be utilised for rehabilitating released bonded labourers. The State could give necessary financial assistance under proper supervision.

It is in this background, we are of the considered view that without prejudice to the respective rights and contentions of the parties and subject to further orders, the State may favourably consider constituting a Nodal Officer in terms of letter dated 31<sup>st</sup> March, 2020 issued by NITI Aayog, Government of India, New Delhi (Annexure-P-2). In fact, the Officer already appointed under the Bihar Epidemic Diseases

COVID-19 Regulations, 2020 as such can be authorized/notified for such purpose. Needless to add, modalities are left open to be determined by the State.

We are also of the view that for centralized monitoring of the problems faced by the sectors mentioned above and the relief provided/action taken, technology be used. Perhaps, a Website, to be operated at the level of the Government of Bihar can be opened up where any member of the Society (organized or un-organized) wanting to help the Government or the citizenry, in whatever manner, be it in the form of material or human resources, can register their request and the same dealt with promptly by a duly authorized competent and a responsible officer. We only hope that the Chief Secretary, Government of Bihar shall have part of this order implemented latest by day-after-tomorrow, 29<sup>th</sup> April, 2020.

List on 1<sup>st</sup> May, 2020, as prayed for.

Registrar (List) of this Court shall ensure that a copy of this order is sent to all concerned, by all modes, as far as possible, but certainly by an electronic mode, during the course of the day. We clarify that such copies be positively sent to (a) the Chief Secretary, Government of Bihar, (b) Principal Secretary, Department of Social Welfare, Government of Bihar, (c) Chairman, District Legal Services Authority (d) Secretary, Disaster Management, Government of Bihar, (e) each one of the District Magistrates of all the Districts in the State of Bihar, (f)

petitioner, and (g) learned counsel for the parties for getting the needful done.

**(Sanjay Karol, CJ)**

**(S. Kumar, J.)**

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