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**(2015) 05 PAT CK 0096**  
**In the Patna High Court**  
**Case No : CWJC No. 8301 of 2015**

Sohila Kuwar

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision :** 28-05-2015

**Acts Referred:**

**Citation :** (2015) 4 PLJR 8

**Hon'ble Judges :** Navaniti Prasad Singh, J.

**Bench :** Single Bench

**Advocate :** Vikash Kumar Pankaj, for the Appellant; Sanjeet Kumar Singh, for the Respondent

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## Judgement

Navaniti Prasad Singh, J.—By this application, the petitioner complains that she is a poor lady. Being seriously ill is unable get treatment on her own. She is a resident of Chapra. She had certain gynecological problem. She went to the Sadar Hospital at Chapra where she was examined and then referred to Patna Medical College and Hospital (hereinafter referred to as "P.M.C.H."). In P.M.C.H. she was examined and she was told that she needed an operation immediately, but as she was HIV positive no doctor was ready to operate or attend to her. Learned counsel for the, State points out that from the medical prescription (Annexure-2) of the P.M.C.H., vide registration No. 20150423108063 dated 23.4.2015, it appears that there is no clear advice for operation.

2. Learned counsel for the petitioner submits that though she was told that she needed an urgent operation, deliberately knowing fully well that she was a HIV patient, no doctor is taking risk for treating her. It was not being so endorsed.

3. In view of the materials on record, this court is not in a position to give finding on this, which is best be left to the experts. However, in a welfare State it is the duty of the State to ensure proper medical aid to every citizen especially the poor who cannot afford treatment elsewhere for various reasons.

4. It is established law that merely because a person is HIV positive no doctor

can refuse to take care rather under Hypocretics Oath, which every doctor has to take, he is obliged, as a matter of professional etiquette, to attend such patient, doing otherwise, would disqualify them as they would be going against the said path of service. There is a decision of this Court as well on the issue in the case of Juhi Kumari Vs. The State of Bihar and Others, .

5. In that view of the matter, I direct the Superintendent of P.M.C.H., Patna to immediately constitute a Board of three doctors of the College to examine the petitioner immediately and give a detail report about her medical status. If considering her age and physical condition an operation is advisable, then it shall be the responsibility of the Superintendent of P.M.C.H. to ensure that it is done at the earliest without any further harassment to the petitioner and at the cost of the State. Only to avoid performing operation, the Medical Board should not give report which they would normally not have given. The report of the Medial Board and the report of the Superintendent, in case she is advised against any such surgical intervention, would be submitted to the court within ten days of production of copy of this order before the Superintendent, P.M.C.H., Patna. In case surgery is recommended, it goes without saying that there would be no delay for the same on any ground whatsoever. Put up this matter before appropriate bench under the heading "For Orders" after summer vacation.