

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.676 of 2013

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Tirloki Nath Pandey son of Late Sheel Sakal Pandey, resident of Mohalla- Chalital,
P.O.- Gulzarbagh, P.S.- Alamganj, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Office Situated
at Main Secretariat, P.S.- Sachivalaya, District- Patna
2. The Inspector General (Prison), Govt. of Bihar, Office Situated
at Main Secretariat, P.S.- Sachivalaya, District- Patna
3. The Jail Superintendent, Patna City, Patna
4. The Jail Superintendent, Central Jail, Beur, P.S.- Beur, District- Patna
5. The Jail Superintendent, Phulwarisharif, District- Patna
6. The Jailer, Patna City, Jail Null Patna
7. The Jailor, Beur Central Jail, Beur, Patna
8. The Jailor, Phulwarisharif Jail, District- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Miss Nilima Sinah, Advocate

For the Respondent/s : Mr. Roy Shivaji Nath, AAG 3

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 18-05-2015

Heard the parties.

2. The petitioner has filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondents to furnish him a certificate for the period of his incarceration for participating in the JP movement during March, 1974 to 21st March, 1977. It has further been prayed for granting him benefits of JP Samman Yojana in view of the Government Resolution dated 5th June, 2009 (Annexure-2 to the writ petition).

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner was arrested on 03.08.1975 in connection with Alamganj P.S. Case No. 3 of 1975 dated 01.08.1975 registered for offences under Section 188 of the Indian Penal Code and Section 69 of DIR. It is contended that after his arrest on



03.08.1975, the petitioner was sent to Patna City Jail. Thereafter, he was transferred to Bankipur Central Jail, Patna and finally he was transferred to Divisional Jail, Phulwarisharif, Patna where he remained in custody till March, 1976 and finally by order dated 09.02.1976 passed in Cr.Misc.No. 4517 of 1975 he was released on bail. It is further contended that in view of the period of incarceration of the petitioner, he is entitled to get the benefits of JP Samman Yojana as also monthly pension under the scheme of the Government vide Resolution dated 5th June, 2009 (Annexure-2), which is being denied to him by the respondents.

4. The matter has been contested by the respondents by filing two separate counter affidavits: one on behalf of the respondent no.1 and other on behalf of the respondent nos. 2 to 8. Learned AAG 3, appearing on behalf of the respondents, submits that there is no dispute that the State Government has come out with JP Samman Yojana by Government Resolution dated 5th June, 2009 (Annexure-2), but the petitioner does not fulfill the eligibility criteria for grant of such pension under the aforesaid scheme. By referring to the averments made in the counter affidavit filed on behalf of the respondent nos. 2 to 8, it is submitted that as per information available in the jail records, one accused Triloki Nath Pandey son of Shiv Shankar Pandey, resident of Bari Patan Devi, P.S.Alamganj, District Patna was admitted at Bankipur Central Jail on 11.08.1975 and he was remanded to judicial custody in connection with Alamganj P.S.Case No. 3 (8) 75 under Section 188 of the Indian Penal Code and Section 69 of DIR, but the petitioner is not that person. It is further submitted that the petitioner has described himself in the writ petition as son of Late Sheel Sakal Pandey, resident of Mohalla Chalital, P.O. Gulzarbagh, P.S.Alamganj, District Patna,



whereas as per jail records, some other Triloki Nath Pandey, as mentioned above, was remanded to judicial custody and address of that person was completely different from that of the present petitioner. It is contended that the petitioner has not furnished the relevant record/material regarding grant of bail to him by this Court. It is pointed out that the claim of the petitioner that he was transferred from Bankipur Central Jail to Divisional Jail, Phulwarisharif is not corroborated from the register available with the jail authority. Learned AAG 3, by referring to the averments made in the counter affidavit filed on behalf of the respondent no.1, also submits that the claim raised on behalf of the petitioner for grant of pension under JP Samman Yojana was considered, but in absence of any proof that he was in judicial custody from 03.08.1975 to March, 1976, he was not found entitled for grant of pension under the aforesaid JP Samman Yojana.

5. It is relevant to mention here that the copies of the aforesaid two counter affidavits filed on behalf of the respondent nos. 2 to 8 and respondent no.1 were served upon the learned counsel appearing on behalf of the petitioner way back on 12.02.2013 and 29.01.2014 respectively, but till date no rejoinder affidavit has been filed on behalf of the petitioner controverting the assertions made by the respondents in the aforesaid two counter affidavits.

6. After having heard the learned counsel for the parties and on consideration of the materials available on the record, it is apparent that the entire claims raised on behalf of the petitioner in the present writ petition are based on disputed question of fact as even identity and address of the person named as Triloky Nath Pandey, who was in judicial custody during the relevant period and that of the present petitioner are quite different. The petitioner claims to be the

resident of Mohalla Chalital, P.O.Gulzarbagh whereas the person named as Triloki Nath Pandey who was in jail custody was resident of Mohalla Bari Patan Devi, P.S.Alamganj. Furthermore, the claim of the petitioner that he was in judicial custody for more than six months is not corroborated from the records available with the jail authorities. The entire claim of the petitioner have been disputed by the respondents by filing two separate counter affidavits, but the assertions made therein disputing the claim of the petitioner have not been controverted by the writ petitioner by filing any rejoinder affidavit.

7. In above view of the matter, this Court is of the opinion that the petitioner is not entitled for any relief in the present writ petition as the facts stated by him are under serious dispute. Consequently, the writ petition has to fail and is, accordingly, dismissed. However, there shall be no order as to costs.

(Birendra Prasad Verma, J)

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