

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.504 of 2014

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M/s Galaxy I-tech Solutions C/o Sunita Rani Das, Jail Chowk, Vardhman Hata, Purnea: 854301 represented through its proprietor, namely, Shri Raju Kumar Sah, son of Shri Ganesh Prasad Sah residing at RZ/H-61, 2nd Floor, Street No.-8, Raghu Nagar, P.S.- Dobri, New Delhi-110045

.... Petitioner/s

Versus

1. The State of Bihar through the Director General of Police Bihar, Patna
2. The Superintendent of Police Purnea
3. The Station House Officer, Khajanchi Hata Police Station, Purnea
4. The Union of India represented through the Deputy Director General, Telecom Enforcement Resource and Monitoring (TERM), Cell, 7th Floor Telephone Bhawan, R- Block, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. K. Ravish, Advocate
: Mr. Ramesh Kumar Singh, Advocate
For the Respondent No. 1 to 3 : Mr. S.K.Sharma, A.C. to G.A.-1

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

3 02-03-2015 This application under Articles 226 and 227 of the Constitution of India has been filed for direction to the respondents to allow the petitioner to open/unlock his commercial premises as local police have restrained the petitioner from running its business merely on the basis of institution of K. Hat (Sahayak) P.S. Case No.212 of 2014 under sections 406, 420 and 120B of the Indian Penal Code read with sections 20, 20-A and 21 of the Indian Telegraph Act.

Learned counsel for the petitioner has submitted that the petitioner is a proprietorship concern having its principal place of



business at New Delhi. It is carrying out its business activities in the districts of Araria and Purnea as operator of M/s Broadband Pacenet (India) Private limited under legally enforceable agreement. It started its operation in the district of Purnea in the name of M/s Galaxy I-Tech Solution at Jail Chowk, Vardhman Hatta, Purnea, Bihar. The premises in question belong to one Sunita Rani Das. She has let out the said premises to the petitioner. While internet service activities was being carried out by the petitioner as an operator of the licensee, a team of two officers of Telecom Enforcement Resources and Monitoring Cell inspected the premises on 28th March, 2014 and recorded certain observations and on the basis of written complaint of one Krishna Kumar the aforesaid K. Hat (Sahayak) P.S. Case No.212 of 2014 was registered and investigation was taken up. In course of investigation of the aforesaid police case on 29th March, 2014 the local police asked the petitioner's representative to lock the premises and as per direction of the police the premises in question was locked. In due course of time, when the proprietor of the firm and its staff tried to open the lock of the premises in question, it was opposed by the local police. They threatened the proprietor of the firm of dire consequences in case he ever tries to unlock the premises till the matter is finally decided although the

premises was neither sealed by the local police nor the same is required to be sealed for the purpose of investigation.

Learned counsel for the petitioner has further submitted that time and again interactions were done with a view to convince the local police that unlocking of the premises in question is required but the same was refused and the fact remains that arbitrarily and without any authority of law the local police have passed a verbal order of injunction restraining the petitioner from unlocking the premises.

Per contra, learned counsel for the State has submitted that there is no truth behind the allegations made by the petitioner. The police have never ever sealed the premises in question. They have not even directed the premises to be locked. The application has been filed on the basis of hypothetical and imaginary presumption of the petitioner.

A counter affidavit has also been filed on behalf of respondent nos. 1 to 3. Paragraph no.9 of the said counter affidavit reads as under:-

“9. That with regard to the allegation made in Paragraph 13 of the writ petition is not correct, which shall be apparent from the report of S.H.O. K. Hat (Sahayak) P.S. District Purnea vide his office Memo

No.230/15 dated-14/02/15 that he neither seized any article from the place of occurrence nor he had sealed the premises of the company. He has also stated in his report that no threatening was ever extended neither to the accused persons nor its staff.”

In view of the submissions made on behalf of the State specially taking into consideration the averments made in paragraph no.9 of the counter affidavit filed on behalf of respondent nos.1 to 3, this application is disposed of with a direction to the respondents not to interfere in any manner, in case, the petitioner opens/unlocks the premises in question save and except in accordance with law.

With these observations and directions, this application is disposed of.

(Ashwani Kumar Singh, J)

Md.S./-

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