

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16468 of 2013

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Dr. Anjali Lal Wife of Dr. Raj Kapoor Das R/O Bank Road, P.S. Gandhi
Maidan, Patna - 800001, Bihar

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna
2. The Bihar Human Rights Commission through its Secretary, Bailey Road, Patna
3. Principal Secretary, Department of Health, Government of Bihar, Patna
4. Director General of Police, Government of Bihar, Patna
5. Senior Superintendent of Police, Patna
6. Rani Devi Wife of Dharamveer Das Village - Ranisarai, P.O. Bakhtiyarpur, P.S. Bakhtiyarpur, District - Patna - 803212
7. Director, Mr. R.P. Golwara Memorial Hospital, Patna City
8. Dr. Om Prakash Srivastava, Surgeon, R.P. Golwara Memorial Hospital, Patna City
9. Patna Medical College Hospital through Superintendent, Ashok Rajpath, Patna
10. Dr. J.P. Gupta, Associate Professor, Surgery, Patna Medical College Hospital
11. Sub Divisional Police Officer, Barh, Government of Bihar, Patna
12. Dr. Siyaram Singh, Mahi Hospital, Murlidhar Campus, Dhelwagosai, Barh, Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Kaushik

For the Respondent/s : Mr. Ranjan Kumar, AC to AAG-4

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

9 13-05-2016 Heard the counsel for the petitioner and the State.

No one appears on behalf of the respondent no. 9.

3. The order passed by the Bihar Human Rights Commission (for short 'BHRC') in file no. 3909/2012 (case of Rani Devi) is under challenge in this writ application.

4. The BHRC after making enquiry directed to institute a



criminal case and also to initiate a departmental proceeding against the writ petitioner. Having found that the complainant suffered physical misery/mental agony, the BHRC directed the writ petitioner to pay compensation of Rs. one lakh to the applicant for the medical negligence. On the first day of hearing, the court while issuing notice to the concerned respondent(s) passed an interim order that no coercive steps shall be taken against the petitioner. Counter affidavit on behalf of the respondent no. 9 P.M.C.H. does not say about any recovery of the amount from the petitioner and/or initiation of the departmental proceeding.

5. Second supplementary affidavit filed on behalf of the petitioner states that in the light of the order of the BHRC, an FIR was lodged vide Barh P.S. Case No. 725 of 2013 under diverse penal provisions of I.P.C. as also SC/ST (Prevention of Atrocities) (for short 'The Act'), in which upon conclusion of investigation final report was submitted not sending up the petitioner to face the trial which has been accepted by the Court. Thus, the grievance with regard to the said direction of the BHRC for institution of an FIR does not survive.

6. The counsel for the State has not placed anything from the record which may indicate that on the order of the BHRC, the

respondents-State has taken any steps for recovery of the amount as directed in the impugned order and/or for initiation of the departmental proceeding.

7. On the contrary, the counsel for the petitioner informs the Court that the petitioner was earlier serving the State on contract basis and now she has been given a regular status as the Government servant. Relying on Section 18 of the Act, it is submitted that the order passed by the BHRC is merely a recommendation. The respondents-State in the light of the recommendation is required to take steps and file an action taken report before the BHRC. He has also highlighted the relevant provisions of the Prevention of Protection of Human Rights Act 1993, which empower the BHRC to approach the High Court or the Hon'ble Supreme Court for issuance of appropriate writ/direction (ref: Section 18(b) of the Act). The respondent State or the counsel for the petitioner has not shown that any such recovery ordered or departmental proceeding initiated against the petitioner. The Court, thus, has reasons to believe that writ application as of now is premature.

8. The counsel for the petitioner has relied on an order passed by the Madras High Court in *W.P. Nos. 21604 to 21607 of 2000 [Rajesh Das, I.P.S., Vs. Tamil Nadu State Human Rights*

Commission] wherein in somewhat identical circumstances the writ petition was held premature. An occasion will arise to the petitioner challenge the legality of the action of the respondents-State in the light of the order passed by the BHRC, if any such action is taken by the respondents-State.

The application is disposed of as premature.

(Kishore Kumar Mandal, J)

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