

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5806 of 2013

Harihar Roy S/O Late Mahendra Roy R/O Mohalla- Indrapuri, Road No. 2a/18,
Police Station- Pataliputra, District- Patna

.... Petitioner/s

Versus

1. The State Of Bihar Through The Home Secretary Govt. Of Bihar, Old Secretariat, Patna
2. The Secretary Human Rights Commission, Bihar, Patna
3. The Director General Of Police, Govt. Of Bihar, Patna
4. The Inspector General Of Police, Patna Zone, Patna
5. The Senior Superintendent Of Police, Patna
6. The City Superintendent Of Police, Patna
7. The Deputy Superintendent Of Police, Kotwali, Patna
8. The District Magistrate, Patna
9. Sri S.B. Singh, The Then A.S.I., Pataliputra Police Station Patna At Present Posted At Agam-Kuan Police Station, Patna
10. Sri Gadadhar Nath Mishra, The Then O/C Pataliputra Police Station, Patna At Present Posted As O/C Danapur Police Station, District- Patna
11. Sri Nandlal Singh, Clerk Posted At Police Head-Quarters Old Secretariat, Patna And R/O Mohalla- Jagdeo-Nagar, North Of Bailey Road And West Of Canal, P.O.- Shaya Nagar, Police Station- Rupaspur, Patna
12. Sri Ravi Shankar Sahay S/O Late Indradeo Sahay Clerk Posted At Industries Department, Vikash Bhawan, Patna, Residing At Tenant On The 1st Floor Of The Petitioner'S House I.E. 2a/18 Indurapuri, Police Station Pataliputra, District- Patna
13. Smt. Bimla Sahay W/O Ravi Shankar Sahay Residing At Tenant On The 1st Floor Of The Petitioner'S House I.E. 2a/18 Indurapuri, Police Station Pataliputra, District- Patna

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Baban Roy
For the State Mr. Satya Prakash AC to SC 22

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 26-09-2016

Heard the counsel for the petitioner and the State.

The petitioner made a complaint before the Bihar Human Rights Commission (for short 'the Commission') alleging that on 19.09.2009 the private respondents came at his house and without disclosing the offence committed by him started beating him. Owing to said brutal beating/thrashing he lost vision of



his right eye. He along with others was taken into police custody where also torture was perpetrated. Subsequently, he was produced before the Magistrate and whereafter was remanded to judicial custody. He remained in police custody from 20.09.2009 to 16.10.2009 when on grant of bail he was released. The Commission taking notice of the complaint directed the Senior S.P. Patna to enquire into the complaint and submit a report. The complainant was noticed by the police authority and was represented before the said authority. The report was adverse to the petitioner. It appears, on request made by the petitioner, the Commission again directed the S.P. (Commission) Mr. Vinod Kumar to inquire into the allegation. The S.P. (Commission) in the light of the said order, went to the spot, recorded the statements of the witnesses from both sides and came to a conclusion that the allegation of brutal beating was not substantiated. The complainant when produced before the Magistrate had not complained that while in police lock-up or in the captivity of the police authority, he was beaten/brutalized leading to loss of vision of one eye. Be it noted the petitioner was an accused of a criminal case in connection therewith his arrest was effected.

Learned counsel for the petitioner submits that, in all fairness, the Commission ought to have directed an independent authority to inquire into the complaint of the petitioner. In not doing so the Commission has committed an error. It is also submitted that in the criminal case lodged against the petitioner under minor sections of the Penal Code including section 420 IPC cognizance was taken and a quashing application was filed in this Court which was allowed and the charge under section 420 IPC has been quashed.

On a consideration of submissions of Mr. Roy and after perusal of materials on record, it appears the Commission, acting at its own discretion, directed enquiries. The S.P.(Commission) was lastly directed to inquire into the

allegation after recording the statements of the witnesses also. On the basis of the materials collected by the Enquiry Officer the allegation made by the complainant/petitioner was not found substantiated. One of the reasons assigned for suspecting the case of the petitioner is that when produced before the Magistrate for the first time, no such complaint was made and/or the injury was shown to the court by the petitioner. The Commission has jurisdiction to consider such claim and call for report(s). No fundamental or basic flaw in the procedure adopted by the respondent Commission has been shown to this Court which has caused serious prejudice to the petitioner. The Writ Court would not sit in appeal over the order of the Commission.

The Court does not find any patent illegality/infirmity in the order passed by the Commission (Annexure-1) which is under challenge.

Dismissed.

(Kishore Kumar Mandal, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	Nil
Uploading Date	30. 09.2016
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