

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.349 of 2016

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Pankaj Kumar Son of Shri Rameshwar Prasad Singh, Resident of Village -
Sihma, P.S. - Matihani, District - Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Begusarai.
2. The District Magistrate, Begusarai.
3. The Superintendent of Police, Begusarai.
4. The Sub - Divisional Officer (Sadar), Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramakant Sharma

For the Respondent/s : Mr. Madhav Prasad Yadav

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

5 26-08-2016 Heard Mr. Ramakant Sharma, for the petitioner and

Mr. Madhav Prasad Yadav, the counsel for the State.

A counter affidavit is filed on behalf of the

respondent no. 3

The petitioner is a contractor and engaged in
transporting and handling works on contract basis for the State
of Bihar. In order to participate in the tender process, the
petitioner is required to submit the Character Certificate along
with other papers. To support the contention, a notice inviting
tender issued by the National Highways Authority has been
enclosed along with the supplementary affidavit. It is submitted
that such character certificate is to be issued as per the



document/certificate at annexure-2. The petitioner filed an application for issue of Character Certificate before the respondent-District Magistrate. A report was sought from the Superintendent of Police, Begusarai. From Paragraph 6 of the counter affidavit, it appears that the report was submitted by the respondent- Superintendent of Police, wherein, on verification, it was found and reported that the petitioner is a named accused of Matihani P.S. Case No. 170 of 2014, dated 12.11.2014 registered under Sections 147, 148, 149, 332, 352, 353, 307, 224, 225, 504 and 506 of the Indian Penal Code in which Charge Sheet was submitted against him vide Charge Sheet No. 13 of 2015, dated 31.01.2015. The report was sent to the respondent-District Magistrate vide letter no. 4286, dated 12.08.2015. Upon receipt of the said report, the respondent-District Magistrate vide communication dated 5.11.2015 (Annexure-1), communicated to the petitioner as under:

“ उपर्युक्त विषयक आपके आवेदन के आलोक में पुलिस अधीक्षक, बेगूसराय से स्थानीय चरित्र का सत्यापन कराया गया. पुलिस अधीक्षक, बेगूसराय के पत्रांक-4286 दिनांक-12.08.2015 के द्वारा प्रतिवेदित किया गया है कि आवेदक के विरुद्ध मटिहानी थाना काण्ड संख्या-170/14 दिनांक-12.11.2014 धारा 147/148/149/332/352/353/307/224/225/504/506 भ०द०वि० आरोप पत्र संख्या-13/15 दिनांक-31.01.2015 समर्पित है.”

The contention of the petitioner is that the respondent-District Magistrate, in all fairness, ought to have



issued the Character Certificate in the form as at Annexure-2, in which he could have incorporated pendency of the criminal case against the petitioner. It is submitted that pendency of a criminal case would not obstruct or deny the petitioner to undertake business transaction with the State. In this regard he has placed reliance on ***Pawan Kumar Vs. State of Bihar & Ors. reported in 2009 (4) PLJR 104***, wherein the Court in such matter, recognized the constitutional right of the citizen under Article 19(1)(g) of the Constitution of India. It has been submitted that only pendency of a criminal case would not deny him his right to occupation.

The respondent-District Magistrate communicated to the petitioner about the pendency of the criminal case against him. The petitioner has, however, submitted that the said factum may be incorporated in the Character Certificate issued to him in the format of a Character Certificate. The counsel for the State on the other hand submitted that as the criminal case is pending against the petitioner, he is not entitled to grant of the Character Certificate.

On consideration of the submissions, it appears that the respondent-District Magistrate vide (Annexure-1), communicated to the petitioner about the pendency of the criminal case against him. The same fact can be incorporated in the format in which the Character Certificate is issued. The

petitioner is satisfied, if the Character Certificate is issued in the shape it's granted incorporating the aforesaid fact of pendency of the criminal case against him.

Considering the above, this Court finds no difficulty in directing the respondent-District Magistrate to issue the Character Certificate in the shape it is generally provided stating or incorporating therein the pendency of the criminal case against the petitioner as reported by the respondent-Superintendent of Police, which has not been disputed by the petitioner before this Court.

Let such exercise be completed on a fresh application filed by the petitioner within (02) weeks therefrom.

The respondent-District Magistrate may also note in the certificate/document that the petitioner has no clean antecedent.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

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