

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7769 of 2014

=====

Fahmi Bari S/o Abdul Bari R/o Village - Pawara, P.O. Qadirganj, P.S. Nawada (Qadirganj O.P.), District - Nawada

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Nawada
3. The District Development officer, Nawada
4. The Sub - Divisional Officer, Nawada
5. The District Programme Officer, Nawada
6. The Block Development officer, Nawada
7. Soni Devi Wife of Pappu Yadav, Mukhiya Village - Pawra, P.O. Qadirganj, P.S. + District - Nawada
8. Pappu Yadav S/o Chando Yadav R/o Village - Pawara, P.O. Qadirganj, P.S. + District - Nawada
9. Superintendent of Police, Nawada.

.... Respondent/s

=====

Appearance :

For the Petitioner : Mr. S.M. Shabbir Alam, Advocate
For the State : Mr. Raj Ballabh Prasad Yadav, AAG-11
Mr. Dinesh Maharaj, A.C. to AAG-11

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 17-01-2017

Heard learned counsel for the petitioner and the State.

Pursuant to order dated 14.12.2016, Mr. Vinay Kumar, Additional Director General of Police, C.I.D. is present. He has submitted an enquiry report to the Court under sealed cover. The report of voluminous and indicates the intensity of the enquiry which has been conducted.

In a nut-shell the report indicates grave irregularity committed in various schemes during the tenure of respondent no.7 in



the execution of various schemes including that under the MGNREGA and Indira Awas Yojana. The report also shows that assets acquired by respondents no.7 and 8, who are wife and husband, are not readily explainable with regard to the income disclosed by them. It has also been indicated that during the period of 2010-13, there were numerous communal incidents and during the same period there has been numerous acquisition of land by respondents no. 7 and 8 and among them quite a few relates to those from the minority community. Thus, it has been opinion that there appears to be some nexus between the communal disturbances and the land dealings.

On the basis of the enquiry report submitted by Mr. Vinay Kumar, the Court directs that appropriate proceeding be initiated, for which the Superintendent of Police, Nawada shall take immediate steps. Enquiry shall also be conducted with regard to the assets created by respondents no. 7 and 8. The Superintendent of Police, Nawada shall be obliged to ensure that a Special Team is entrusted with the investigation and he shall monitor it at this level also and ensure that the investigation proceeds in the right direction. As far as indication of link between communal disturbances/tensions and the land transferred in the names of respondents no.7 and 8 is concerned, and the policy of the State Government being zero tolerance, the matter is referred to the State Government. A copy of



the report shall be sent to the Principal Secretary, Department of Home, Government of Bihar to initiate appropriate action in the matter, which should be taken to its logical conclusion expeditiously. The report also discloses that the ceiling case, which was initiated against the father of the petitioner has been set aside by the High Court in a judicial proceeding in the year 1986, with liberty to the authorities to move afresh in the matter. However, it has also been stated that till date no fresh proceeding has been started. The report further discloses that despite such being the position, large chunks of land from the said estate of the petitioner is in occupation of various Departments of the State Government, for which no valid order or papers have been found during the enquiry and the concerned officers have also not been able to justify or satisfy as to how the said lands came in their possession. This also is a serious matter as it indicates that the State has become an encroacher and the land in question has forcibly been taken possession of without the due procedure of law, moreso, despite having lost the case in the High Court with regard to the land being acquired under the Ceiling Act way back in the year 1996 and after which no proceedings have been initiated.

In this view of the matter, the District Magistrate, Nawada is directed to ensure that all consequential action flowing from the order in favour of the father of the petitioner in the year 1996



is taken within a period of six months from the date of receipt/production of a copy of this order upon him.

The Court would like to observe that if the land is required for various departments of the State and are being so utilized, the State will be at liberty to initiate proper proceedings for acquisition under the relevant law after adopting the due procedure prescribed and taking steps thereafter in accordance with law.

The Court would like to record its deep appreciation for Mr. Vinay Kumar in getting the enquiry done and submitting a detailed report, which is exhaustive and also supported by various documents. Such work having been done besides his other pressing responsibilities clearly indicates his sincerity and respect for the Court which is highly appreciable.

The Court requests Mr. Vinay Kumar to forward a copy of his entire report, along with the supporting documents/materials, to the District Magistrate, Nawada; the Superintendent of Police, Nawada as well as to the Principal Secretary, Department of Home, Government of Bihar, Patna, and they shall be obliged to comply with the directions given in this order.

The Court would like to observe that it is conscious of the fact that the order is being passed without notice to the respondents no.7 and 8, but in view of an enquiry conducted by the



police of the State and the report vetted at the highest level, facts having come, which disclose commission of grave offences, only the process of law has been set into motion, as in any case it would be the duty of both the Investigating Agencies as well as the Court before which the matter would be placed for taking appropriate action/decision in the matter, to proceed in accordance with the due procedure of law and after giving full opportunity of hearing to all concerned, including the respondents no. 7 and 8.

It is also pertinent to note that during the enquiry, respondent no.8, who is the husband of respondent no.7, gave his statement, but did not allow his wife, i.e., respondent no.7, to give statement herself to the enquiry officer.

Thus, in the considered opinion of the Court, the requirement of the principles of natural justice would be satisfied as the concerned private persons will get full opportunity to place their side of the story during the investigation and before the Court concerned. Further, during the enquiry, opportunity of hearing was given. Moreover, the law being settled that where there is *prima facie* indication of any criminal offence having been committed, the procedure/process of law has to be set in motion, which is what the Court has done.

The writ application stands disposed off in the



aforementioned terms. The report submitted under sealed cover to the Court shall be put in sealed cover and retained on the records of the case.

(Ahsanuddin Amanullah, J)

V.P.Sinha/-

AFR/NAFR	
U	

