

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10075 of 2010

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1. Rajesh Ranjan S/O Shri Ramashray Prasad Singh R/O Vill.- Arai Keshopur, P.S.-
Atri, Distt.- Gaya, Presently Posted As The Officer In Charge Of Birpur Police
Station, Distt.- Begusarai

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Old Secretariat, Patna
2. The Secretary, Department of Home, Govt. of Bihar, Patna
3. The Deputy Secretary, Department of Home (Police), Govt. of Bihar, Patna
4. The Inspector General of Police (Welfare), Department of Home, Govt. of Bihar,
Patna
5. The Bihar Human Rights Commission, through its Secretary, Soochna Bhawan,
New Secretariat, Patna
6. The Superintendent of Police, Begusarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shantanu Kumar, Adv.
Mr. Amit Kr. Singh, Adv.

For the Respondent/s : Mr. Mrigendra Kumar, A.C. to SC10

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 23-08-2017

Heard Mr. Shantanu Kumar, learned counsel for the petitioner
and Mr. Mrigendra Kumar A.C. to G.A.4.

The petitioner prays for issuance of a writ in the nature of
certiorari for quashing the Memo No.420 dated 5.2.2010 of the
Superintendent of Police, Begusarai whereby a direction has been
issued for deduction of Rs. 50,000/- from the salary of the petitioner
at the rate of Rs.5000/- per month beginning from February, 2010 in
compliance of the order of the Bihar State Human Rights Commission
dated 28.8.2009. Copies of the order passed by the Superintendent of



Police dated 5.2.2010 is impugned at Annexure-1 and the order of the Bihar State Human Rights Commission is enclosed at Annexure-2 to the writ petition.

The short issue raised by Mr. Shantanu Kumar to question the two orders is that neither did the petitioner receive any notice in the proceedings so initiated before the Bihar State Human Rights Commission nor has the Superintendent of Police heard the petitioner before passing the order dated 5.2.2010. In short, it is the argument of Mr. Shantanu Kumar that both the orders under challenge are ex parte and without opportunity of hearing to the petitioner. In reference to Rule 16 of the Protection of Human Rights Act, 1993 (hereinafter referred to as 'the Act') he submits that the statute mandates an opportunity of hearing. It is stated by Mr. Shantanu Kumar that the amount has also been recovered from the petitioner.

It is taking note of the issues so raised that learned State counsel was directed to ascertain the correct position and whether a notice was served on the petitioner on the proceedings so initiated in the Bihar State Human Rights Commission.

Mr. Mrigendra Kumar while filing a supplementary counter affidavit filed on behalf of the State has referred to the statement made in paragraph 5 of the supplementary counter affidavit filed today which mentions that neither any notice so issued by the Bihar State



Human Rights Commission was received in the office of the Superintendent of Police, Begusarai nor has the same been served on the petitioner. It thus stands confirmed that the order of the Bihar State Human Rights Commission is ex parte and has been passed without opportunity of hearing to the petitioner as mandated under Section 16 of 'the Act' and the order of the Superintendent of Police dated 5.2.2010 impugned at Annexure-1 is a mechanical compliance of the order so passed.

I also need to place on record that vide order passed on 3.5.2011 notice was issued to the Bihar State Human Rights Commission through its Secretary and though notice has been reportedly validly served on them but they have not chosen to appear before this court to contest the matter.

Having heard learned counsel for the parties and considering the submission of the Superintendent of Police, Begusarai in endorsing the plea of the petitioner regarding absence of service of notice on the petitioner on the proceedings so initiated by the Bihar State Human Rights Commission, the order of the Commission is held passed in violation of the mandatory requirement of Section 16 of 'the Act' and is accordingly quashed and set aside. As a consequence, the order bearing memo No. 420 dated 5.2.2010 of the Superintendent of Police, Begusarai is also quashed and set aside.



Let the Superintendent of Police, Begusarai take appropriate steps for refund of the amount so recovered from the salary of the petitioner within a period of 3 months from the date of receipt/production of a copy of this order.

The writ petition is allowed with the direction aforementioned.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.09.2017
Transmission Date	NA

