

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.320 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 6226 of 2015

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B. Chand Foundation having its registered office at Bhariya Rahika Mahananda Colony, B.M.P. - 7, Katihar through its Secretary Chandana Kumari W/o Sanjay Kumar Jha resident of Bhariya Rahika Chowk, P.S. Sahayak (Katihar), District - Katihar

.... Petitioner / Appellant

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna
2. The Managing Director, Women Development Corporation, Bihar, Patna
3. The District Magistrate, Katihar
4. The District Programme officer, Katihar
5. The District Welfare Officer, Katihar
6. The District Project Manager, Women Development Corporation, Katihar
7. The Sub - Divisional officer, Katihar
8. The Superintendent of Police, Katihar

.... Respondents / Respondents.

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Appearance:

For the Appellant/s : Mr. D.K. Sinha, Sr. Advocate and
Mr. Bhola Prasad, Advocate.

For the Respondents-State: Mr. A.B. Sinha, GA 8 and
Mr. Suryakant Kumar, AC to GA 8.

For the Respondents 2 & 6: Mr. Binod Kumar, Advocate.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 20-03-2017

Seeking exception to an order dated 08.12.2015 passed
in Civil Writ Jurisdiction Case No. 6226/2015, this appeal has been
filed under Clause 10 of the Letters Patent.

2. The petitioner, a Non Governmental Organization
registered under the Societies Registration Act, claims to be working



for development of Women and for the purpose of implementation of certain social welfare schemes of the government, the petitioner's organization was chosen to run a Women's Help Line and Short Stay Home under the Mukhyamantri Nari Shakti Yojna. Finding the petitioner's organization not to have conducted its proceedings in accordance to the requirement of law and finding there to be various discrepancies, on 15.01.2015 the District Magistrate, Katihar directed for closure of the Short Stay Home and Help Line and all the female inmates were shifted to another Short Stay Home.

3. *Inter alia*, contending that the impugned action has been taken without hearing the petitioner, without notice to them and in violation to the principles of natural justice, the Writ Petition was filed and the Writ Court, after going through various aspects of the matter including the counter affidavit, found that in the Short Stay Home a woman was found to be pregnant and while she was being shifted to a hospital to facilitate delivery of the child, she died. That apart, the District Administration on inspection found various other irregularities and illegalities and incriminating materials were seized and therefore against the petitioner's organization an FIR was lodged vide Crime No. 361 of 2013 under Sections 363, 366A read with 376 of the Indian Penal Code, Sections 5 and 6 of the Prevention of Immoral Trafficking Act and even prior to lodging of this FIR, it was



found that another FIR was lodged vide Crime No. 142 of 2011, certain offences were investigated and chargesheet was submitted for offence under Sections 469, 468, 471 and 420 of the Indian Penal Code and taking note of these facts and finding the inmates of the Short Stay Home to be exploited and there being serious threat to their life, the impugned action was taken.

4. The learned Writ Court finding that in the light of the serious incidents that have happened due to mishandling by the management and various other aspects, the action taken is proper and merely because there was some violation in the matter of non-grant of opportunity, holding that the petitioner's society was functioning under a Margdarshika, not under a statutory provision, and there was no agreement or contract which was violated; the totality of the circumstances was evaluated by the learned Writ Court and the petition dismissed taking note of the serious discrepancies or illegalities found and the non-statutory right, based on which is a scheme under which the petitioner's organization was found to be functioning.

5. Taking note of the detailed order in this regard passed by the learned Writ Court and the sufferings of the destitute and the human right factor involved in the matter, we are of the considered view that merely because of opportunity of hearing was not granted,



indulgence into the matter was not called for and in the peculiar facts and circumstances of this case after taking note of the public interest and the interest of the women inmates who are the sufferers, the Writ Petition has been dismissed. No error has been committed by the learned Writ Court warranting reconsideration. The appeal is therefore dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Dilip, A.R.

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

