

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.5606 of 2013

In

CR. WJC 540 of 2005

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Lallan Kumar, Son of Sri Kamleshwari Prasad, Resident of Hiralal Lane,
Chajjubagh, P.O.- Chajjubagh, P.S.- Gandhi Maidan, District-Patna

.... Petitioner

Versus

1. The State of Bihar, through Mr. A. K. Sinha, the Chief Secretary, Bihar,
Patna
2. Mr. Amir Subhani, the Home Commissioner, Government of Bihar,
Patna
3. Mr. Abhayanand, the Director General of Police, Bihar, Patna
4. Mr. Paresh Saxena, the Inspector General, Special Branch, Bihar, Patna
5. Mr. Sanjay Kumar, the District Magistrate, Khagaria
6. Mr. Dipak Burnwal, the Superintendent of Police, Khagaria

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nagendra Kumar Singh, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha, G.A-1

Mr. Pawan Kumar, AC to GA-1

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP
SINGH**

ORAL ORDER

4 27-07-2017

Heard learned counsel for the parties.

The petitioner filed Cr.W.J.C. No. 540 of 2005 raising two issues, namely, whether the earlier security guard provided to him was ex-gratia or whether it was in lieu of payment. The other issue was with respect to grant of fresh security guard on account of threat to his life.

So far as the first relief is concerned, this Court observed that the authorities would give notice to the petitioner with all the relevant documents in respect of the due amount and will give him adequate opportunity to offer his explanation and



thereafter would decide the matter.

With respect to second issue, this Court directed the respondents to grant security guard to the petitioner without charging any payment from him on the ground of admitted danger to his life.

So far as the second issue is concerned, the matter stands settled by the order, dated 09.11.2009, modified vide order dated 24.11.2009 of the Hon'ble Apex Court, which directed that the request of the respondent-applicant to provide body guards will be considered by the appellate committee viz Divisional Security, Munger, Bihar and if the committee is satisfied that the body guards should be provided, the body guards will be provided to him on payment basis..

The grievance of the petitioner in this context is limited to the first issue with respect to the matter whether earlier in past the security guards was provided to him ex-gratia or in lieu of payment.

Mr. Prabhakar Singh, learned counsel appearing for the petitioner, submitted that as per the order of this Court, the respondents were to decide the matter only after giving the petitioner an opportunity of hearing and after providing necessary documents. However, I find that the respondents instead of providing an opportunity of hearing, straight way asked the



petitioner to deposit Rs. 1,06,725/- for having provided security earlier, and on failure of the same, initiated certificate proceeding.

The step of the respondents is in teeth of the order of this Court, as final decision as to whether earlier security guards was provided on payment basis or ex-gratia, was to be decided after providing an opportunity of hearing to the petitioner. Realizing that the step taken was not in consonance with the order, the respondents have rectified their mistake. The Superintendent of Police, Khagaria has issued a fresh notice vide letter no. 95, dated 19.12.2016, and the certificate case was kept in abeyance.

This contempt application is disposed of with one more indulgence to the petitioner to file his reply to the notice issued by the Superintendent of Police, Khagaria within six weeks from today and thereafter the respondents would decide the matter on its own merit without prejudice.

As the certificate case, being Certificate Case No.01 of 2013-14, was premature, the same is held non-est with liberty to initiate fresh proceeding, subject to final outcome of the dispute, as to whether the earlier security was provided ex-gratia or on payment basis.

(Samarendra Pratap Singh, J.)

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