

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15891 of 2017

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Constable No. 756 Liaquit Ali Son of Md. Nizam Resident of Haz Bhawan, 34,
Ali Imam Path, P.S. Sachwalaya, District- Patna.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Home (Police), Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. Constable No. 2177 Sri Narendra Kumar Dheeraj Son of late Dudheshwar Singh, General Secretary, Bihar Police Men's Association, Central Office, Naveen Arakshi Kendra, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Satish Kumar Sinha, Advocate
For the State : Mr. Anil Kumar, AC to SC-8
Mr. Sheo Shankar Prasad - SC-8

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 22-11-2017

Heard Mr. Satish Kumar Sinha, learned counsel for the
petitioner and Mr. Anil Kumar, learned Assistant Counsel to
Standing Counsel No.-8 for the State.

2. By the present writ petition, the petitioner has prayed
for issuance of a writ in the nature of mandamus directing the
authorities to restrain respondent no. 4 to convene a special
meeting on 05.11.2017 for holding election of Executive Members



of the Bihar Police Men's Association (for short 'Association'). Another relief, which has been sought for in the present writ petition is for quashing Memo No. 223 dated 10.10.2017 issued by the General Secretary of the Association whereby a decision has been taken to convene a special meeting on 05.11.2017 for holding election of Executive Members of the Association.

3. Even before the writ petition could be taken up by the Court, which was filed on 03.11.2017, the petitioner has filed two interlocutory applications, vide I. A. No. 8135 of 2017 and I. A. No. 8136 of 2017. In I. A. No. 8135 of 2017, the petitioner has sought for the additional relief for quashing notification no. 249 dated 05.11.2017 whereby respondent no. 4 has fixed the date of nomination as 21.11.2017, date of withdrawal of nomination paper as 22.11.2017 and date of election as 27.11.2017. In I. A. No. 8136 of 2017, the petitioner has prayed to stay the operation of the aforestated notification no. 249 dated 05.11.2017 and the entire process of election of the Association which is scheduled to be held, as noted above, as also for restraining respondent no. 4 to proceed with the election of the Association.

4. It is submitted by the learned counsel for the petitioner that the Association is holding election contrary to the rules framed



by the Association, as contained in Annexure- 1 to the present writ petition.

5. Learned counsel for the State has raised a preliminary objection regarding maintainability of the writ petition on the ground that the Association is a private body and is not exercising any public functions.

6. On query made by the Court, learned counsel for the petitioner admitted that there is no statutory rule under which the election is to be held. He submitted that the Association has framed its own rules vide Bihar Police Men's Association Election Rules, 2014 and the election is going to be held in contravention to the provisions prescribed under the aforesaid rules.

7. *Prima facie*, this Court is satisfied that the Association is not a statutory body. It merely represents the interest of its members, i.e. police. It does not possess any regulatory control or power over the functioning of the policemen. It cannot even discipline its members for misconduct.

8. In **Federal Bank Ltd vs. Sagar Thomas & Ors [(2003) 10 SCC 733]**, the Supreme Court held "*a writ petition under [Article 226](#) of the Constitution of India may be maintainable against (i) the State (Govt); (ii) Authority; (iii) a statutory body;*



(iv) an instrumentality or agency of the State; (v) a company which is financed and owned by the State; (vi) a private body run substantially on State funding; (vii) a private body discharging public duty or positive obligation of public nature (viii) a person or a body under liability to discharge any function under any Statute, to compel it to perform such a statutory function.”

9. In **Zee Telefilms Ltd. & Anr vs Union Of India & Ors [(2005) 4 SCC 649]**, the Supreme Court held “*Thus, it is clear that when a private body exercises its public functions even if it is not a State, the aggrieved person has a remedy not only under the ordinary law but also under the Constitution, by way of a writ petition under [Article 226](#)”.*

10. Having considered the ratio laid down by the Supreme Court, this Court is of the opinion that a writ proceeding, which is against an Association, which is neither State within the meaning of Article 12 of the Constitution of India, nor an authority nor a statutory body nor an instrumentality or agency of the State nor financed by the State nor run on State funding and is purely a private body voluntarily framed by its members having its own rules and regulations and discharging no public duty or obligation of public nature, is not maintainable.



11. Resultantly, the writ petition is dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.11.2017
Transmission Date	NA

