

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14813 of 2016

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Bhagwat Upadhyay, Son of Late Shiv Nath Upadhyay, Resident of Mohalla :-
Diwaliya, Ward No.- 24, P.S. Shikarpur, District :- West Champaran.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Home Department (Special), Old Secretariat, Patna - 1.
2. The Deputy Secretary, Home Department (Special) Old Secretariat, Patna - 1.
3. The Deputy Secretary of Loknayak Jai Prakash Narayan Movement Cell (Koshang), Old Secretariat, Patna - 1.
4. The Chairman Groups of Ministeries, Home Department (Special) Old Secretariat, Patna.
5. The Chairman, Advisory Council, J.P. Samman Yojna Office, 2/12, Officers Flat, Shastrinagar, Patna.
6. Special Central Jail, Bhagalpur.
7. The Jail Superintendent, Special Central Jail, Bhagalpur.
8. The I.G., Prison, Government of Bihar, Secretariat, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Shrivastav, Adv.
For the Respondent/s	:	Mr. Prabhat Kumar Verma- AAG 3
		Mr. Suman Kumar Jha, AC to AAG-3.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 22-11-2018

Heard Mr. Sanjeev Kumar Shrivastav, learned counsel
for the petitioner and Mr. Suman Kumar Jha, learned AC to AAG-
3, for the respondent-State.

Though, the present writ application was registered on
01.09.2016, but till date no counter affidavit has been filed, hence,
in view of the nature of order this Court intends to pass, this Court
is not inclined to adjourn the matter any further.

The present writ application has been filed for a
direction to the respondent-authorities to grant the Samman



Pension (hereinafter referred to as 'Pension') under the J.P. Samman Pension Scheme (hereinafter referred to as 'the Scheme') in terms of resolutions dated 05.06.2009 and 15.07.2015, issued under the signature of Home (Special) Department, Government of Bihar, since the petitioner remained in custody under D.I.R. from 11.10.1974 to 14.12.1974 and 24.07.1975 to 13.12.1975, total 6 months and 22 days and as per the Scheme, the petitioner is entitled to Rs. 5,000/- per month as pension.

It is submitted by learned counsel for the petitioner that the petitioner being a social activist, having good reputation in the society, participated in mass movement led under the leadership of late Jai Prakash Narayan. During the said movement, the petitioner was arrested on 11.01.1974 under D.I.R. and remained in custody for two months and three days and thereafter he was again arrested on 24.07.1975 and remained in custody for four months and nineteen days.

It is further submitted that the Home (Special) Department, Government of Bihar vide resolution dated 05.06.2009 as well as 15.07.2015, came out with a scheme, which stipulates that the persons who were under custody from one month to six months or more than six months during J.P.



movement, they will be provided monthly pension of Rs. 2,500/- or Rs. 5,000/- respectively and if such person died in jail or during the police firing during such movement, then the husband/wife of the deceased will get monthly pension of Rs. 5,000/- under the Scheme. It is further submitted that the petitioner remained in custody for more than six months during the J.P. Movement from 11.10.1974 to 14.12.1974 and from 24.07.1975 to 13.12.1975. The petitioner submitted an application 17.07.2010 for grant of the pension under the Scheme in appropriate format after coming into force of the resolution dated 05.07.2015 by the Home (Special) Department, Government of Bihar. Subsequently, the Deputy Secretary (Home) Govt. of Bihar, vide letter no. 741, dated 16.09.2015, as contained in Annexure-6, intimated the petitioner that the recommendation has not been received from the concerned Advisory Committee and thereafter the petitioner submitted a representation before the Deputy Secretary(Home) Govt. of Bihar, on 08.04.2016, as contained in Annexure-7, and thereafter on 09.05.2016, but till date, the application of the petitioner has not been disposed of. Hence, the present writ application.

Learned AC to AG 3 submits that at present, he is not having any instruction, but if decision has not been taken on the



application of the petitioner till date, the same will be taken within a specified time frame.

Considering the rival submissions of the parties, this Court is of the view that in order to protect the democracy of the country and rights of the citizen, a movement was led in the State of Bihar from 18.03.1974 to 21.03.1977 under the leadership of late Jai Prakash Narayan, which includes the period during which the emergency was imposed in the country in the year 1975. Subsequently, the Department of Home (Special) Government of Bihar came out with resolution dated 05.06.2009, which stipulates that the persons who remained in custody either under MISA or under D.I.R. from one month to six months or for more than six months during 18th of March, 1974 to 21st March, 1977, they will be provided monthly pension, under J.P. Samman Scheme, of Rs. 2,500/- or Rs. 5,000/-, respectively. If such person during the said period died in the jail or due to police firing, their wives/husbands will be provided Pension of Rs. 5,000/- per month and the persons who received injuries during said period, will be provided Pension of Rs. 2,500/- per month. This scheme further stipulates that such persons who get the Pension shall also be entitled to free travel in the buses of Bihar State Road Transport Corporation and shall also



get free medical facilities in the government hospitals and in the hospitals approved under CGHS.

In the present case, it is admitted fact that the petitioner remained in custody under D.I.R. for more than six months and this fact has not been controverted by learned AC to AAG 3.

In the circumstances, in view of the mandate of the partial notification dated 5th June, 2009, it is expected from the respondent authorities to take a final decision on the pending application of the petitioner preferably within a period of three months from the date of production of a copy of this order.

Accordingly, with the above observations/directions the present writ application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

