

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5727 of 2015

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Brajesh Kumar Singh, son of Shri Satyam Singh, resident of Village - Itwa, P.S. -
Garkha, District - Saran, at present Police Line, P.S- Sadar, District - Samastipur,

.... Petitioner

Versus

1. The Director General-cum-Inspector General of Police, Bihar, Patna.
2. The Chief Election Officer –cum-Sabhapati, Bihar Police Men's Association,
Darbhanga Branch Camp Branch, Samastipur.
3. The Additional Director General Police Administration, Bihar, Patna.
4. The Assistant Inspector of Police welfare, Bihar, Patna.
5. The Superintendent of Police, Samastipur.

.... Respondents

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Appearance :

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

For the Respondent/s : Mr. Amar Nath Deo, SC-26

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 09-07-2018

Heard learned counsel for the petitioner and the
learned counsel for the State.

2. The instant writ petition has been filed by the
petitioner for directing the respondents to accept his membership of
Bihar PoliceMen's Association and to consider his nomination for
the post of Sabhapati.

3. The contention of the petitioner is that he was removed



from membership for six year by the then Sabhapati of Bihar Policemen's Association, Patna vide order dated 01.08.2014. His further contention is that his removal from membership was bad in law. It was done so to deprive of his right to vote and right to contest the election of Bihar Policemen's Association.

4. 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.

5. On query made by this Court, learned counsel for the petitioner admitted that there is no statutory rule under which the election is held. He submitted that the Association has framed its own rules vide Bihar Police Men's Association Election Rules, 2014 and the election is held under the said rules.

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

7. 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.”

8. 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*”.

9. Having considered the ratio laid down by the Supreme Court, I am of the considered 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.



10. In that view of the matter, I see no merit in this writ petition. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.07.2018
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