

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.999 of 2017

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Md. Akbar Ali, son of Md. Afsar Ali, Resident of Line Mohalla, Rehman Medical Hall Subhash Palli, Post Office- Kishanganj Town, Police Station- Kishanganj Town, District- Kishanganj.

.... Petitioner/s

Versus

1. The State of Bihar, Through The Chief Secretary, Government of Bihar, Patna.
2. The Home Commissioner, Government of Bihar, Patna.
3. The Inspector General of Police (Security), Bihar, Patna.
4. The District Magistrate-cum-Collector, Kishanganj.
5. The Superintendent of Police, Kishanganj.
6. The Deputy Superintendent of Police (Special Branch) District- Kishanganj.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sandeep Kumar Shahi, Adv.
Mr. Rabindra Kumar Priyadarshi, Adv.
For the Respondent/s : Mr. Seho Shankar Prasad, SC-8

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 29-01-2018

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

Petitioner has filed the present writ application seeking a direction to the respondent authorities to grant him protection of life as he claims that his life is in danger by the hands of antisocial elements and sand mafias.

It is the case of the petitioner that earlier his applications for providing adequate security were forwarded to the then District Level Security Committee with recommendation from



the office of the Superintendent of Police, but the District Level Committee at the relevant time could not take a decision and thought it just and proper to call for a report as to the residential address of the petitioner. The petitioner had moved this Court by filing a criminal writ application but the same was withdrawn under an impression that there is an appellate authority namely State Security Committee which was in fact not there.

Be that as it may, it is an admitted position that now the State Security Committee has been constituted by virtue of a government resolution dated 02.05.2017 which has been brought on record as Annexure-A to the counter affidavit filed on behalf of the respondent nos.4 and 5.

Petitioner claims that he has made an application before the State Security Committee for consideration. There is an apprehension in the mind of the petitioner which has been vehemently canvassed by learned counsel representing the petitioner that because the District Magistrate, Kishanganj is having some grudge against him for some obvious reasons as the petitioner has made complaint against the District Magistrate, Kishanganj and because of his complaint a proceeding has been initiated against him, it is unlikely that the District Magistrate shall allow furnishing of a true and correct report as regards the perception of threat of the petitioner. Learned counsel,



therefore submits that in his case his application should be allowed to be considered on the basis of the report which should be furnished by the Inspector General of Police (Security), Bihar.

On the other hand, learned counsel representing the State submits that while it is true that earlier the S.P. had submitted a report to the District Level Security Committee recommending the case of the petitioner for security, but at the relevant time the District Level Security Committee was unable to take a final decision because of certain issues which cropped up in the meeting of the District Level Security Committee. In fact the residential address of the petitioner was under verification and was required to be submitted to the Committee for purpose of consideration. It is also submitted that now the State Security Committee has already been constituted and if an application is filed by the petitioner in accordance with the guidelines issued by the government under the resolution dated 02.05.2017, as contained in Annexure-A to the counter affidavit, there is no reason why the same would not be considered by the State Security Committee in accordance with law and in terms of the guidelines of the government.

Learned counsel representing the State however submits that apprehension expressed by the learned counsel for the petitioner is not proper at this stage because now in terms of the



scheme of the resolution dated 02.05.2017 the District Magistrate would have no role to play in the matter of recommendation of the application. He further submits that apprehension of learned counsel that the S.P. will be acting under influence of the District Magistrate is wholly erroneous and is not based on any materials available on the record.

Having considered the rival submissions at the bar, this Court is of the considered opinion that if the petitioner files an application or has already filed an application in accordance with the guidelines issued by the government, as contained in resolution dated 02.05.2017 (Annexure-A to the counter affidavit), the same is liable to be considered in terms of the guidelines in accordance with law. It has to be considered on the basis of the materials which are required in terms of the guidelines and no extraneous consideration as is the apprehension of the learned counsel for the petitioner may find place at the time of consideration of the application.

Since learned counsel for the petitioner is unable to show any material as to how the District Magistrate, Kishanganj is going to influence the S.P., this Court at this stage is unable to accept the submission of the learned counsel for the petitioner. Learned counsel for the State has submitted that the District Magistrate has no role to play in the matter of submission of the report, this Court is of



the opinion that S.P. being such a highly responsible officer of the State would have his own independent view and shall act on the basis of the materials which he would collect in his own independent exercise.

In the facts and circumstances, the application filed by the petitioner shall be considered within the given time frame as per the guidelines of the government, it is made clear that in case the petitioner will have any material to show that the S.P. has acted on the dictate of the District Magistrate he will definitely have all freedom to bring it to the notice of the senior police officer such as I.G. (Security) and if satisfied thereupon, the I.G. (Security) will have a role to play on the basis of the materials which will be available on the record.

The writ application is disposed of with the observations and directions made above.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

