

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.80 of 2019

Arising Out of PS. Case No.- Year- Thana- District- Supaul

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Bhog Narayan Paswan, aged about 31 years, Gender-Male, son of Khushi Lal Paswan, Ward No.12, Baluaha Bangawan, Madhubani Bangama, P.O-Bangama, P.S.-Laukahi, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Main Secretariat, Patna
2. The Principal Secretary, Health Department, Govt. of Bihar, Main Secretariat, Patna.
3. Regional Deputy Director, Health, Saharsa.
4. Sri Ghanshyam Jha, Civil Surgeon, Supaul.
5. District Magistrate, Supaul.
6. Deputy Superintendent, Sub Divisional Office, Triveniganj, Supaul.
7. S.D.M. Triveniganj, Supaul.
8. S.H.O., Triveniganj, Supaul.
9. S.H.O., SC/ST, Supaul
10. Dr. Prakash Kumar, aged about 38 years, Gender-Male, son of Bhola Prasad Yadav, resident of village-Lalpatti, Ward No.3, P.O. & P.S.-Triveniganj & District-Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Sugandha Prasad, Advocate
For the Respondent/s	:	Mr. Rajeshwar Singh, G.A.-10

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT
Date : 15-01-2019

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

2. The petitioner has prayed for the following reliefs, as mentioned in para-1 of the writ petition:-

(a) Issuance of an appropriate writ(s), order(s), or direction(s) in the nature of Rule NISI commanding the respondent authorities No.5 to 8 as to why an ATR be not called for on the



complaint made to the said government authorities contained in Annexure-1 series, causing inapt umbrage, while discharging his official duty in the said Hospital (Sub Divisional Hospital, Triveniganj) at the callous hands of Private respondent no.10 Dr. Prakash Kumar, who remained instrumental in pressurizing the petitioner to spare time for his private hospital known as “Om Subhadra Hospital” situate in front of the said sub-divisional hospital, and on his refusal to succumb to his tactical pressure tactics then he will have to face the music, as he was strong foot hold in the high ups of govt. machinery, and have got partonage of Sri Arvind Yadav, Local M.L.A. Nirmali Vidhan Sabha Constituency and close relative of Hon’ble Minister Bijendra Yadav, Govt. of Bihar need to be taken care of at this juncture, as life and property of petitioner is in jeopardy and being imperiled heavily at the callous hands of respondent no.10 with no mechanism to arrest forthwith the high handedness and the act of omission and commission of the said Dr. Prakash Kumar (respondent no.10).

(b) Issuance of an appropriate writ(s), order(s) as to why a “facts finding committee” be not constituted on the complaint made against the respondent no.9 contained in Annexure-1 series, and after having full proof probe, be proceeded with in accordance with law, and to book him



under SC & ST Act, in as much as, the petitioner remained subjected to the humiliation of the worst order as the respondent no.10 used to call him in full view of public by addressing his caste, and is also being threatened with dire consequences.

(c) Issuance of an appropriate writ(s), order(s) or direction(s) as to why an adequate protection cover be not provided to safeguard the life and property of the petitioner as the opposite party no.10 are out to commit mischief and to get him eliminated any moment through the anti-social element of the society requires to be taken care of at this juncture.

(d) To grant any other relief/reliefs to which petitioner is entitled to in facts and circumstances of the case.

3. The petitioner, a doctor, who was earlier posted in Sub-divisional Hospital, Triveniganj in the district of Supaul where respondent no.10, Dr. Prakash Kumar was also posted has raised several grievances.

4. Learned counsel for the petitioner submitted that the transfer of the petitioner has been made at the instance of respondent no.10, who remained instrumental in pressurizing the petitioner to spare his time for his private hospital situated in front of the Sub-divisional Hospital, Triveniganj where the petitioner and respondent no.10 were posted. She contended that several



representations were made by the petitioner to the respondent authorities but to no effect. She contended that it is a fit case in which a “fact finding committee” should be constituted on the complaint made by the petitioner against the action of the respondent No.10. She further contended that since the petitioner is a member of scheduled caste community, an FIR should be drawn against the respondent no.10 as also the other authorities, who have failed in discharge of their duties.

5. *Per contra*, learned counsel appearing for the State submitted that the writ petition is totally misconceived. The petitioner has filed this writ petition only because he is aggrieved by the order of his transfer passed by the competent authority. The transfer order has not been annexed to the writ petition and there is no material on record to show that the transfer of the petitioner from one hospital to another is illegal. He has further contended that in case any cognizable offence has been committed by anyone, the petitioner ought to have given information to the officer-in-charge of the concerned police station in terms of section 154(1) of the Code of Criminal Procedure. In case, the S.H.O. would have refused to register FIR on the complaint, the petitioner was required to bring it to the notice of the Superintendent of Police by transmitting the substance of



accusation through registered post to him. In case, the Superintendent of Police would have also failed to register the FIR, the petitioner has still a remedy under the Code of Criminal Procedure under Sections 190 and 200 of the Code of Criminal Procedure. The petitioner has failed to take any steps in accordance with the statutory provisions and has filed the writ petition, which is not maintainable.

6. I have heard learned counsel for the parties and carefully perused the record.

7. I find substance in the submission of the learned counsel for the State.

8. The transfer order has not been brought on record. Though, it has been urged that the transfer order has been passed at the instance of respondent no.10, who is close to some powerful politicians, there is nothing on the basis of which such wild allegation can be substantiated. Moreover, a transfer order can not be challenged by filing a criminal writ petition.

9. As far as the allegation of threatening etc. being given to the petitioner by respondent no.10 is concerned, the petitioner has got adequate remedy under the Code of Criminal Procedure.



10. The writ petition has got no merit. It is dismissed,
accordingly.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.01.2019
Transmission Date	21.01.2019

