

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 13021 of 2002

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Sanjay Kumar Verma, son of Shri Shailendra Kumar Verma, resident of
Village – Raghunathpur, PS – Brahmpur, District - Buxar

... .. Petitioner/s

Versus

- 1 Union of India through Secretary, Ministry of Home Affairs, Government of India, New Delhi
- 2 The Director General, Border Security Force, FHQ (Force Headquarters), CGO Complex, Lodi Road, New Delhi
- 3 Inspector General, Border Security Force, Frontier Headquarters, Shillong (Meghalaya)
- 4 Commandant, 112 Battalion, Border Security Force, Panbari, District – Dhubri, Assam

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr A B Ojha, Sr Advocate with Mr Awadhesh Mishra, Advocate
For the Respondent/s	:	Mr Rajesh Kumar Verma, ASG

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 12-07-2019

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

2 Writ petition has been filed by the petitioner, who was a Sub Inspector in the respondent-Border Security Force challenging his dismissal from service under order dated 17.08.2002 conducted by General Security Force Court (for brevity, GSFC).

3 The Assistant Solicitor General appearing on behalf of the Union of India, referring to the counter affidavit filed on



behalf of respondents, would submit that the respondents, as far back as in the year 2007, have raised the issue regarding the instant proceedings not being maintainable before this Court for want of territorial jurisdiction. GSFC was held at Panbari in the State of Assam. Sentence was also conveyed to him at Panbari in the State of Assam. Issues raised in the instant proceedings are arising out of the events which took place in the GSFC proceedings at Panbari in the State of Assam. Relying upon the fact that rejection of his statutory petition has been conveyed at his home address at Buxar in the State of Bihar, the petitioner has approached this Court under Article 226 of the Constitution. Learned counsel for the Union of India has placed reliance on judgments in the case of ONGC -Versus- Utpal Kumar Basu, 1994 (4) SC 711 j 2000 lals – c 464, N K Nakul Deb Singh -Versus- DG, CISF, Kottayam, AIR 2002 SC 126, Lt Col Khojoor Singh -Versus- UOI, AIR 1961 SC 532.

4 Mr A B Ojha appearing for the petitioner submits that since the matter has remained pending for such a long time in this Court, the proceedings should not be rejected on account of the issue of maintainability.

5 Maintainability on account of alternative remedy being available is one thing. Maintainability for want of



jurisdiction of the Court to deal with the issue is another thing. In the instant case, the issue regarding for want of territorial jurisdiction was raised by the respondents in the counter affidavit filed about twelve years back. There is no rejoinder or reply thereto in the records till date. The issue of maintainability having regard to territorial jurisdiction has to be seen in light of the decisions relied upon by the Assistant Solicitor General as also some other decisions of the Apex Court in the case of Union of India & Others -Versus- Adani Exports Ltd & Another, (2002) 1 Supreme Court Cases 567 as well as later judgment in the case of Alchemist Ltd & Another -Versus- State Bank of Sikkim & Others, (2007) 11 Supreme Court Cases 335.

6 This Court would observe that the entire proceedings in the GSFC as well as before the Appellate Authority are in issue in the instant proceedings. Whatever has transpired in those proceedings constitutes relevant bundle of facts to be examined in this case. The cause of action, therefore, on account of all these bundle of facts, have arisen outside the territorial jurisdiction of this Court. Relying upon judgments of the Apex Court, taken note of herein above, this Court would observe that communication at various stages upon the petitioner while he was within the territorial jurisdiction of this Court does not constitute an integral



part of the cause of action falling for consideration in the instant case.

7 The learned Senior Counsel has also submitted that if this Court is not inclined to entertain this case for want of territorial jurisdiction, the petitioner should be left with liberty to approach the Court of appropriate territorial jurisdiction if he so desires.

8 In respect of the said submission, this Court would only observe that this Court has not dealt with the case on merits, which remain opened to be decided by the competent Court/Forum in accordance with law.

9 Writ petition stands disposed of.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.07.2019
Transmission Date	NA

