

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10868 of 2019

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Vidya Nand Ram, aged about 49 years, S/o Late Charitra Ram, resident of 37,
Pipra bajid, near Kabristan, Dhaka, East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar.
2. The Principal Secretary, Schedule Caste/Schedule tribe Welfare Department.
3. The Secretary, Schedule Caste/ Schedule tribe Welfare Department.
4. The District Magistrate cum Chairman District Level Schedule Caste/
Schedule Tribe Vigilance and Monitoring Committee.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Alka Verma, Adv.
For the Respondent/s	:	Mr. Sunil Kumar Mandal, SC-3.
		Mr. Ravi Ranjan Kumar Singh, AC to SC-3.
		Mr. Arjun Prasad, AC to SC-3.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 08-07-2019

Heard Ms. Alka Verma, learned counsel appearing for
the petitioner and Mr. Sunil Kumar Mandal, learned SC-3 for the
State.

This writ petition was initially filed as a personal interest
litigation, inasmuch as the petitioner tried to espouse the cause on
behalf of the victims under **the Scheduled Castes and the
Scheduled Tribes (Prevention of Atrocities) Act, 1989**
(hereinafter referred to as 'the Act') and the Rules framed
thereunder in so far as the legislature bestows a right on the victim



to have an advocate of his/her choice. Learned Single Judge of this Court bearing note of the issue raised, allowed the writ petition to be converted into a Public Interest Litigation and that is how the matter is placed before us.

We have heard Ms. Verma, learned counsel appearing for the petitioner and Mr. Mandal, learned SC-3 for the State and we have also examined Rule 4(1) and Rule 4(5) of the Rules framed under 'the Act' in so far as it deals with the issue raised in this writ petition and we note that while Rule 4(1) allows the District Magistrate to prepare a panel of eminent Senior Advocates for conducting the cases in Special Courts and Exclusively Special Courts arising under 'the Act', Rule 4(5) has been incorporated, having an overriding effect, to confer power on the District Magistrate as well as the victim concerned, to engage an eminent Senior Advocate of the choice if the need so arises. For the sake of ready reference we reproduce Rule 4(1) and Rule 4(5) of the Rules:

“ 4.Supervision of prosecution and submission of report.- (1) The State Government, on the recommendation of the district Magistrate, shall prepare for each District a panel of such number of eminent senior advocates who have been in practice for not less than seven years, as it may deem



necessary for conducting cases in the Special Courts and Exclusive Special Courts.

(1-A) The State Government in consultation with the Director Prosecution or in charge of the prosecution, shall also specify a panel of such number of Public Prosecutors and Exclusive Special Pubic Prosecutors, as it may deem necessary for conducting cases in the Special Courts and Exclusive Special Courts, as the case may be.

(1-B) Both the panels referred to in sub-rule (1) and sub-rule (1-A) shall be notified in the Official Gazette of the State and shall remain in force for a period of three years.

(5) Notwithstanding anything contained in su-rule (1) the District Magistrate or the Sub-Divisional Magistrate may, if deem necessary or if so desired by the victims of atrocity engage an eminent Senior Advocate for (conducting cases in the Special Courts or Exclusive Special Courts) on such payment of fee as he may consider appropriate.”

In our opinion, the legislature thus while conferring jurisdiction on the State through the District Magistrate concerned, to prepare a panel of eminent Advocates for conducting cases arising under ‘the Act’ has also given a right to the District Magistrate as well as to the victim to go beyond this panel.

In such view of the matter and where the law is so clear, we do not deem it necessary to express anything on the issue



raised for it is only if any victim under ‘the Act’ is denied any such facility that a cause would arise for adjudication on the issue. We accordingly dispose of this matter leaving the option open for the person aggrieved to move this Court in case the situation would so arise.

(Jyoti Saran, J)

(Partha Sarthy, J)

Anjula/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	27.07.2019
Transmission Date	NA

