

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.911 of 2019

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Suman Kumar (M) (aged 29 years) S/o Late Rajendra Prasad R/o village-
Station Road, Janta Market Hilsa, P.S.- Hilsa, District- Nalanda at present C/o
R.P. Gupta, N.C. 118, S.B.I. Officer Colony, 1st Floor Lohiya Nagar, P.S.-
Kankarbagh, District- Patna

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Home Deptt. Govt. of Bihar,
Patna
2. The Chief Secretary, Govt. of Bihar, Patna
3. The District Magistrate cum Collector, Nalanda at Bihar Sharif

... .. Respondents

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Appearance :

For the Petitioner/s	:	Sri Sachidanand Choudhary Mr. Lovekush Kumar
For the Respondent/s	:	Mr. Prabhat Kumar Verma, AAG-3 Miss Divya Verma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
and
HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

2. 17-06-2019 Heard Sri Sachidanand Choudhary, learned counsel
assisted by Sri Lovekush Kumar, learned counsel for the
petitioner and learned A.C. to Addl. Advocate General – 3.

The sole petitioner, invoking extra-ordinary
jurisdiction of this Court, has approached this Court with a
prayer to quash a notice, vide Notice No. 55 dated 13-03-2019,
issued under the signature of District Magistrate-cum-Collector,
Nalanda at Bihar Sharif (respondent no. 3) in B.C.C.A. Case No.
35 of 2019 under Section 3 of the Bihar Control of Crimes Act,



1981 (hereinafter referred to as 'B.C.C.Act'). By the said notice, the petitioner was asked to file show cause as to why under B.C.C.Act, order may not be passed against him. The Annexure -1 is the impugned notice, which reflects that for smooth and peaceful election, the step was being taken for passing such order.

Learned counsel for the petitioner has assailed the notice on the ground that in the notice, there was reference of only one police case, otherwise there were reference of three *sanaha* entries in the police station i.e. Hilsa Police Station and as such, notice was vague. On the ground that if notice is vague, this Court is well competent to set-aside such notice. In this regard, learned counsel for the petitioner has placed reliance on (i) 1930 P.L.J.R 73 (*Gaya Rai & Ors. vs. The State of Bihar & Ors.*), (ii) 1980 P.L.J.R. 93 (*Birendra Kumar Singh vs. The State of Bihar & Ors.*) and (iii) 1979 B.B.C.J. 793 (*Mahabir Pd. Akela vs. The State of Bihar & Anr.*).

Learned State counsel has emphasized that notice was issued on 13-03-2019 asking the petitioner to file show cause by 26-03-2019, however; the present writ petition was filed much belatedly. Learned State counsel has also raised preliminary objection on the point of maintainability of the writ petition,



with a plea that by impugned notice i.e. Annexure -1, the petitioner was only asked to file show cause. No right of the petitioner has been infringed. Besides this, it has been argued that had it been a case of violation of order under Section 3 of the B.C.C.Act, there was statutory remedy available to the petitioner.

Besides hearing learned counsel for the parties, we have also perused the material on record, particularly Annexure-1, which is only a notice issued on 13-03-2019. By the said notice, the petitioner was asked to file show cause till 26-03-2019. However, without any plausible explanation, the present writ petition was filed during vacation period i.e. on 24-05-2019. Fact remains that only by way of issuance of notice, no right of the petitioner has been infringed and in absence of any infringement of right, whether fundamental or any other right, there is no reason to exercise writ jurisdiction.

The criminal writ petition stands dismissed.

(Rakesh Kumar, J.)

(Anil Kumar Sinha, J.)

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