

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2803 of 2018

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

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Shamsher Khan @ Sher Khan @ Pahalwaan, aged about 40 years, son of Md. Sultan, resident of near Purani Masjid, Isapur, P.S. and P.O. - Phulwari Sharif, District - Patna

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Government Of Bihar, Patna
2. The State of Bihar through the Principal Secretary, Department of Home (Police), Government of Bihar, Patna
3. The District Magistrate – cum- Collector ,Patna, Bihar
4. The Senior Superintendent of Police, District -Patna, Bihar
5. The Station House Officer, Phulwari Sharif Police Station, District -Patna
6. The Station House Officer, Hathidah Police Station, Mokama, District – Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Saket Anand, Advocate
		Mr. Sayed Imran Ghani, Advocate
For the Respondent/s	:	Mr. Md. Nadim Seraj, Govt. Pleader No. 5

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
and
HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

4 25-02-2019 Heard Mr. Saket Anand, learned counsel, assisted by

Mr. Sayed Imran Ghani, learned counsel for the petitioner and

Mr. Md. Nadim Seraj, learned Government Pleader No. 5.

The present writ petition has been filed assailing the

order in Case No. XXXVIII-05/2018 dated- 20.09.2018

whereby under Section 3(B)(1) of the Bihar Control of Crimes

Act, 1981 (hereafter referred to as the “Act”) he has been



directed to report twice in a week before the Officer -in-charge of Hathidah Police Station.

Learned counsel for petitioner tried to persuade the court that order impugned was in violation of Section 3(2) of the Act since no proper opportunity was granted to him for filing any show -cause however respondent no. 3 has filed counter affidavit. Learned State Counsel has tried to justify the order. Besides this, orally a preliminary objection has been raised by Mr. Nadim Seraj, learned Govt. Pleader No. 5 that against the order impugned there is statutory remedy of appeal before Commissioner under Section 6 of the Act. He submits that once there is statutory remedy, without availing the same petitioner may not be allowed to invoke extraordinary writ jurisdiction of this court.

After hearing learned counsel for the parties and considering the fact that there is already statutory remedy available to petitioner, there is no reason to interfere with the impugned order. The writ petition can be disposed of granting liberty to petitioner to avail statutory remedy.

It goes without saying that if such appeal is filed before the appellate authority, the period consumed by petitioner in pursuing the present petition before this court shall be



excluded while considering limitation.

Accordingly, with above observation, writ petition stands disposed of.

(Rakesh Kumar, J)

(Prakash Chandra Jaiswal, J)

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