

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7128 of 2020

=====

Uday Narain Choudhary Son of Kamal Narain Choudhary Resident of More House No - 22, Adarsh Colony, Kidwaipuri, Post- G.P.O., P.S.- Buddha Colony, District- Patna, PIN- 800001.

... .. Petitioner/s

Versus

1. The State of Bihar through its Home Secretary, Government of Bihar, Patna.
2. The Home Secretary, Government of Bihar, Patna.
3. The Union of India, through Home Secretary, New Delhi, India.
4. The Director General of Police, Bihar, Patna.
5. The Office of Commandant, Bihar Military Police - 2, Dihiri.
6. The District Magistrate, Patna.
7. The Commissioner, Patna.
8. The Senior Superintendent of Police, Patna.
9. Sub Divisional Police Officer, Sadar, Patna.
10. Station Head Officer, Buddha Colony Police Station District- Patna.
11. The District Magistrate, Gaya.
12. The Senior Superintendent of Police, Gaya.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Apurva Kumar, Adv.
For the Respondent/s	:	Mr. P.K. Verma, AAG-3
		Mr. Sanjay Kr. Gosarway, AC to AAG-3

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 09-07-2020 Heard learned counsel for the parties.

2. The petitioner asserts that he had been Speaker of the Bihar Legislative Assembly for a record period from 2005 to 2015. He was a member of Bihar Legislative Assembly from 2000 to 2015. He has filed the present writ application seeking quashing of an order/ communication as contained in letter No.



1324 dated 05.05.2020, issued by the office of the Commandant, Bihar Military Police-2, Dehri, whereby and whereunder he has immediately withdrawn the armed force of 2+8 strength, deputed at the official residence of the petitioner (12-Mangels Road, Patna). The petitioner is also seeking a direction to restore his Z level security, as was earlier provided to him, after proper scrutiny of his threat perception at local and national level. The petitioner further wants this Court to direct the respondents to demonstrate to this Court by bringing on record the basis for revocation/ alteration of earlier security arrangements and to explain as to why, in a haste, a decision has been taken to replace Z category security with Y category security. The petitioner has further sought for a direction to enhance his security to Z+ because of threat perception from *Naxalites*.

3. It has been averred in the writ application that on his election as Speaker of the Bihar Legislative Assembly, the Senior Superintendent of Police, Gaya had written a confidential letter mentioning therein that the petitioner had threats from various active *Naxal* units and accordingly he was provided Z+ security round the clock. Since he is a reputed personality and an Ex-Speaker of Bihar Legislative Assembly having threat perception, he needs Z+ security, the petitioner contends.



4. The impugned communication dated 05.05.2020, issued by the Commandant, BMP-2, Dehri has been brought on record by way of Annexure-3 to this application. On careful reading of the said communication, it is evident that vide memo No. 3402 dated 28.03.2019 issued by the Home Department (Special Branch), Government of Bihar, the petitioner being an Ex-Speaker of Bihar Legislative Assembly, was allowed Y category security. It has further been mentioned in the said communication that a dignitary having Y category security is allowed to have one PSO round the clock i.e. 3 PSOs and 1-4 Houseguards at the residence. Accordingly, $3+5 = 8$ security personnel are to be deputed for a dignitary having Y category security.

5. It is also mentioned in the letter that 3 PSOs have been deputed from Gaya District Police and 1-4 Houseguards have been deputed by BMP-7, Katihar, which is permissible for a person having Y category of security. In addition to this, the letter mentions, 2-8 force was on deputation at the residence of the petitioner at 12-Mangles Road despite the fact that way back in March 2019 itself, Y category security was permitted for the petitioner, he being Ex-Speaker of Bihar Legislative Assembly. It is in this background that the



Commandant, BMP-2, Dehri has issued the said communication for withdrawal of extra set of Houseguards beyond permissible standards.

6. Mr. Apurva Kumar, learned counsel appearing on behalf of the petitioner has, with all vehemence, argued that the respondent authorities had no occasion to downgrade the level of security from Z to Y, which has been done without reappraisal of threat perception. He has drawn the Court's attention to certain news reports published in the year 2010 to make out his case that the petitioner has serious threat perception and the decision to downgrade the security category is unreasonable, arbitrary and without any reappraisal.

7. There is no dispute that Y category security was allowed to the petitioner with the issuance of letter No. 3402 dated 28.03.2019 itself by the Home Department (Special Branch). The petitioner did not question the said decision at any point of time. At least, there is no averment in this regard in the writ application. It was only a result of follow up action leading to issuance of letter dated 16.04.2020 by the Home Department (Special Branch) that the Commandant, BMP-2, Dehri has apparently issued the said communication for withdrawal of extra force deputed at the residence of the petitioner.



8. It is peculiar to note that the petitioner has not put to challenge the decision whereby he has been allowed Y category security through letter No. 3402 dated 28.03.2019. In such circumstance, it is impermissible for him to question the impugned communication of the commandant, BMP-2. The said communication is, admittedly, in consonance with the admissibility of security force for a person having Y category security. The said communication does not require any interference by this Court.

9. Further, the question whether the petitioner is entitled for a particular level or category of security in the wake of some threat perception, is purely within the domain of executive. This Court in exercise of its power of judicial review does not have judicially determinable parameters to go into the adequacy or otherwise of security to be provided to an individual or a dignitary. The matters of security can be determined by the authorities of the Government vested with the power. For the said reasons, I decline to entertain the petitioner's contention that he is entitled for a particular level of security in the present proceeding.

10. It will be, however, open for him to approach the appropriate authority in this regard.



11. This application is dismissed with the liberty as
aforesaid.

(Chakradhari Sharan Singh, J)

Rajesh/-

U			
---	--	--	--

