

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.1102 of 2016**

Arising Out of PS. Case No.-270 Year-2014 Thana- BARH District- Patna

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Panchanand Sharma, Son of Late Sukhdev Sharma, Resident of Mohalla -  
Dayachak, P.S. Barh, District – Patna. ... .. Petitioner

Versus

1. The State of Bihar through The Chief Secretary, Govt. Of Bihar, Patna
2. The Director General of Police, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
4. The Director, Primary Education, Bihar, Patna.
5. The District Magistrate, Patna.
6. The Senior Superintendent of Police, Patna.
7. The Deputy S.P., Barh, Patna.
8. Sri B.R. Pandey, S.I., Investigating Officer, Barh Police Station, District - Patna.
9. Ramesh Chandra, Son of Late Devendra Kumar, Resident of Dayanand Ucha Madhyamik Balak Vidyalaya, Mithapur, Patna (Balipur, Macharhata, Barh, Patna).
10. Ram Pravesh, Son of Late Daroga Roy, Professor Colony, Dhalwan Gosai, Barh, District - Patna.
11. Ashok Kumar, Son of Late Vishwanath Mahto, Resident of Salimpur, Barh Bazar, District Patna.
12. Shyam Sundar Kumar, Son of Sri Bindeshwari Sharma, Resident of Salimpur, Barh Bazar, District Patna.
13. Superintendent of Police (RURAL) Patna

... .. Respondents

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**Appearance :**

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| For the Petitioner/s | : | Mr.Gautam Sah, Advocate<br>Mr. Rajeev Kumar, Advocate |
| For the State        | : | Mr. I.A. Niazi, A.C. to G.P.-5                        |
| For the Respondent/s | : | Mr.Arun Kumar Bhagat, Advocate                        |

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

3      20-02-2020                      As prayed learned counsel for the petitioner is permitted to add Superintendent of Police (Rural), Patna as party respondent no.13.

This writ application has been preferred seeking a



direction to the respondents particularly the I.O./S.H.O. of Barh Police Station in connection with Case No. 270 of 2014 to complete the investigation in accordance with law and for this purpose the petitioner also submits that the case be transferred to the CID where Special Investigation Team (SIT) be constituted.

It is the grievance of the petitioner that the local police (I.O.) is involved in fabricating the evidence in favour of the accused and he has gone in collusion with them based on extraneous consideration.

It is for this reason, it is submitted by the petitioner that the police has not completed investigation and police final report has not been submitted. At the same time, it is also the grievance of the petitioner that the I.O. is not taking steps to secure appearance of the accused persons and no step is being taken under Section 82/83 of the Code of Criminal Procedure to ensure their appearance.

The petitioner has also prayed that the respondent authorities be directed to provide adequate protection and security cover to the petitioner.

Counter affidavits have been received in this case. In the counter affidavit filed on behalf of respondent nos. 6 and 7



which has been sworn by the Sub-divisional Police Officer, Barh as back as on 05.09.2018. It is stated in paragraph '7', '8' and '9' as follows:-

“7. That it is stated that Barh P.S. Case No 342/2013 was instituted against Panchanand Sharma/petitioner for misusing the fund of school and property, thereafter another case vide Barh P.S. Case No. 14/2014 was instituted by Sanjay Singh against one of the member of Managing Committee Ramesh Chandra and Birendra Kumar and lastly the present case No. 270/2014 was instituted which relates to the present writ application.

8. That it is further stated that Barh P.S. Case No. 14/2014 and Barh P.S. Case No. 342/2013 were instituted and investigated and Barh Case No. 14/2014 has been found false as all those cases relates with affairs of the School.

9. That it is further stated that during investigation and supervision, the case was partly found true but since the matter is complicated in which Bank, Department of Education the Managing Committee are concerned including the informant as he has been ousted the petitioner Panchanand Sharma in the year 2011 and matter was also notified in Bihar Gazette No. 326 dated 14.08.2011 by which the present Managing Committee was dissolved and the petitioner became Head Master cum- Secretary. ”

The another counter affidavit of respondent no. 3 has been sworn by the Director, Secondary Education, Government of Bihar. It is stated in paragraph '7' that the respondent no. 3



namely the Principal Secretary, Education Department, Government of Bihar, Patna has vide his letter no. 464 dated 31.08.2018 requested the Director General of Police, Bihar, Patna to apprise him in respect of latest development in the matter and as soon as such information will be received an effective counter affidavit shall be filed. Unfortunately, that effective counter affidavit has yet to come.

This writ application is pending before this Court since the year 2016 and the counter affidavit sworn by S.D.P.O., Barh states that the investigation is almost complete and only on some important issues it has remained pending due to retirement of the Investigating Officer. The last Investigating Officer, Durga Charan Mandal, Sub Inspector of Police said to be investigating this case from 12.10.2017 and it is stated in the counter affidavit that the prosecution report from the said Investigating Officer was awaited to only submit final form. In paragraph '12' of the counter affidavit it is also stated that on receipt of the final prosecution report from the office of Superintendent of Police (Rural), Patna the final form shall be submitted.

In the totality of the facts and circumstances and the materials available on the record, this Court finds that it is one



of the cases which indicate the ineffectiveness on the part of the Investigating Officer in carrying on the investigation of a case within a reasonable period. This Court has reiterated on various occasion that only because the Cr.P.C. does not provide for the maximum period within which the investigation must be completed, it does not mean that the investigating agency shall keep pending the investigation of a case for years and years together.

At this stage, this Court directs the Senior Superintendent of Police, Patna and the Superintendent of Police (Rural), Patna to review the matter, supervise the same and ensure filing of police final report/form in all these cases within 90 days from the date of receipt/production of a copy of this order.

If the investigation is not concluded within this period and report is not submitted in the court below, it will be open for the petitioner to move this Court for an appropriate direction.

This writ application stands disposed of with the aforesaid observations and directions.

**(Rajeev Ranjan Prasad, J)**

vats/-

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