

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.243 of 2021

Arising Out of PS. Case No.- Year-0 Thana- District- Sitamarhi

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1. GEETA DEVI W/O CHANDRA SARMAH (Ex- UB Constable Police Commissionerate, Guwahati) Resident of Village - Block K.H.No.1, Police Reserve, Paltan Bazar, Guwahati, Kamrup (M), Guwahati-781001
 2. Radha Sharma (Kumari) W/o Nitay Sharma Permanent Resident of Village - Chakbarkurwa, P.O. Bishundatpur, Dist.- Muzaffarpur, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Director General of Police (DGP), Govt. of Bihar, Patna. Bihar
3. The Deputy Inspector General of police (DIG), Tirhut Range, Darbhanga. Bihar
4. The Superintendent of Police (SP), Sitamarhi. Bihar
5. The Station -in- Charge, Dumra P.S., Sitamarhi. Bihar
6. The District Magistrate, Sitamarhi. Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ankit Katriar, Adv.
For the Respondent/s : Mr. Manoj Kumar, A.C. to G.P.4

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

6 22-12-2021 Heard learned counsel for the petitioners and learned A.C. to G.P.4 for the State respondents.

The petitioners have preferred this application for directing the respondent authorities to take immediate steps for submission of missing/untraceability report of the husband of petitioner no.1 who has been missing from Sitamarhi Hospital from 17.4.2009 and further prays for any other reliefs to which



they may be found entitle.

The case of the petitioners in brief is that the husband of the petitioner no.1 who was visiting his native place in Sitamarhi, Bihar went missing on 17.4.2009 while undergoing treatment at Samastipur hospital. The petitioners filed a complaint with the Dumrao Police Station under district Sitamarhi on 19.4.2011, however no steps were taken thereon.

It is submitted by learned counsel for the petitioners that since 21.6.1972 the husband of petitioner no.1 was working as UB Constable in the department of Police Commissionerate, Gauhati. The husband of the petitioner no.1 not having been traced, as advised, the petitioner no.1 moved the Hon'ble Gauhati High Court in Writ Petition(C) no.4144 of 2020 praying for payment of the dues payable to her husband. Learned counsel refers to Clause-5 of Rule 143A of the Assam Service (Pension) Manual to submit that the same provides that the date of disappearance of the employee shall be reckoned from the date of issue of the report by the concerned police station stating that the employee has not been traced out after all efforts has been made and the period of one year after which the benefits of family pension and death-cum-retirement gratuity are to be sanctioned shall also be reckoned from this date.



It is submitted that in view of the said rule, the Gauhati High Court passed order dated 13.10.2020 in WP(C) no. 4144 of 2020 (Annexure- P/6) granting liberty to the petitioners to approach the Patna High Court for appropriate directions against the concerned police station for submission of the missing/untraceability report as regards the husband/father of the petitioners. Thus the instant writ petition.

A counter affidavit has been filed on behalf of the Superintendent of Police, Sitamarhi, paragraph nos. 8, 9 and 10 of which are being quoted hereinbelow for ready reference:

“8. That the S.H.O., Sitamarhi has submitted a report from the available records and Station Diary entry that a Sanha bearing S.D. entry no.529 dated 19.04.2009 was entered about complaint of missing of Chandra Sharma on the basis of complaint of his daughter Radha Kumari and as per S.D. entry the complaint was handed over to the Assistant Sub Inspector Motai Sawaiya for enquiry.

Photocopy of Sanha bearing S.D. entry No.529 dated 19-04-2009 is being annexed herewith and marked as Annexure-B to this counter affidavit.

9. That as per available records Assistant Sub Inspector Motai Sawaiya has carelessly not submitted any report on above complaint so departmental proceeding has been initiated against him.

10. That as per the enquiry report submitted by the present S.H.O., Sitamarhi Shri Chandra Sharma is still traceless after 17.04.2009 i.e. after



he left Sadar Hospital, Sitamarhi.”

From the above it is clear that the Assistant Sub Inspector of Police concerned not having submitted any report on the complaint made by the petitioners on 19.4.2009, a departmental proceeding has been initiated against him. Further pursuant to the enquiry conducted by the present police personnel, the husband of petitioner no.1 is traceless since 17.4.2009 when he left the Sadar hospital, Sitamarhi. Thus from the facts stated hereinabove and from the contents of the counter affidavit filed on behalf of the Superintendent of Police, Sitamarhi it is clear that the husband of the petitioner no.1 continues to remain traceless since 17.4.2009.

In view of the above, this application is disposed of with a direction to the Station House Officer of Dumrao Police Station, district Sitamarhi (respondent no.5) to issue a report as per the contents of the counter affidavit filed on behalf of the Superintendent of Police, Sitamarhi with respect to the untraceability of the husband of the petitioner no.1. The report shall be provided to either of the petitioners within a period of two weeks from the date of receipt of a copy of this order.



Let a copy of this order be sent to the Superintendent
of Police, Sitamarhi.

The writ application stands disposed of.

(Partha Sarthy, J)

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