

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8923 of 2021

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Sujit Kumar Singh Son of Late Ram Naresh Singh Resident of Rupash Mahaji, P.O. Rupash Mahaji, P.S. Salimpur, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar.
2. Director General of Police, Bihar, Patna.
3. Inspector General of Police, Central Range, Patna-cum-Chief Election Officer, Bihar Police Mens Association, Camp-Central Office, Bihar Police Men's Association, Patna.
4. Deputy Inspector General of Police, Military Police, Central Range, Patna.
5. Senior Superintendent of Police, Patna.
6. Narendra Kumar Dhiraj Son of Sri Dudheshwar Singh Resident of Village-Mudfarpur, P.S. Sahar, District- Bhojpur at present residing at House No. 07 Beur Jail Road, New Mahavir Colony, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Rajan Ghoshrahe, Advocate
For the Respondent/s : Mr. Sanoj Kumar Sharma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 02-03-2022

The primary legal issue which is involved in the present writ petition is, whether Bihar Police Men's Association is amenable to writ jurisdiction under Article 226 of the Constitution of India or not. There are two aspects to this issue. Firstly, whether the said Association can be said to be a State within the meaning of Article 12 of the Constitution of India. If it is a State within the meaning of Article 12 of the Constitution



of India, it will certainly be amenable to writ jurisdiction. However, if the said question is answered in negative, amenability of the Association to writ jurisdiction will depend on the second aspect as to whether the Association discharges any public function or not.

2. The petitioner in the present writ application is a constable in Bihar Police, presently posted at Gaya. He filed this writ application under Article 226 of the Constitution of India seeking issuance of a writ in the nature of Certiorari, quashing the candidature/nomination of respondent No. 6 for the post of “*Pradesh Adhyaksh* of Bihar Police Men's Association” on the ground that after having been transferred from Patna to Lakhisarai, his candidature itself was invalid as he had not joined his new place of posting. The petitioner further sought for a direction to conduct free and fair election of the Central Executive of the Bihar Police Men's Association. During the pendency of the writ application, the election has been held, in which respondent No. 6 has been declared elected on 20.03.2021. Accordingly, an Interlocutory Application has been filed in August 2021 seeking amendment in the writ petition to challenge the election of respondent No. 6 as *Pradesh Adhyaksh* of Bihar Police Men's Association.



3. In the wake of the facts noted above, the issue which has been framed at the very outset has emerged. The identical issue had earlier come up for consideration before this Court in case of Constable No. 756 ***Liaquit Ali Vs. State of Bihar and Ors. (CWJC No. 15891 of 2017)(SB)***. In the decision rendered on 22.11.2017 in the case of ***Liaquit Ali*** (supra), noticing Supreme Court's decision in case of ***Federal Bank Ltd. Vs. Sagar Tomas & Ors.*** reported in (2003) 10 SCC 733 and ***Zee Telefilms Ltd. & Anr. Vs. Union of India & Ors.*** reported in (2005) 4 SCC 649, a Single-Bench of this Court has held in paragraph 10 as under :-

“10. Having considered the ratio laid down by the Supreme Court, this Court is of the opinion that a writ proceeding, which is against an Association, which is neither State within the meaning of Article 12 of the Constitution of India, nor an authority nor a statutory body nor an instrumentality or agency of the State nor financed by the State nor run on State funding and is purely a private body voluntarily framed by its members having its own rules and regulations and discharging no public duty or obligation of public nature, is not maintainable.”

4. We must make it clear that the said decision in case of ***Liaquit Ali*** (supra) relates to the same Bihar Police Men's Association. Similar view has been taken in a subsequent



Single-Bench decision rendered on 09.07.2018 in ***CWJC No. 5589 of 2015 (Rakesh Kumar Singh and Anr. Vs. The Director General-cum-Inspector General of Police and Ors.)***.

5. Learned counsel for the petitioner has vehemently relied on a guideline issued on 18.03.2021, by the Director General of Police, Bihar to contend that nomination of respondent No. 6 to contest election was invalid as he was already transferred to Lakhisarai from Patna and he had not joined his place of posting. He has submitted that since the election has been held in accordance with the guidelines issued by the Director General of Police, Bihar and under the supervision of a Senior Police Officer of the rank of Inspector General of Police, an interference in the process of election is required by this Court in writ jurisdiction as the petitioner has been able to demonstrate that respondent No. 6 was ineligible to contest the election. He has, however, not been able to bring on record any material to suggest that the Bihar Police Men's Association is either a State within the meaning of Article 12 of the Constitution of India or a body discharging any public function.

6. We have perused the said guideline dated 18.03.2021, which appears to have been issued taking into



account provisions under Bihar Police-Forces (Restriction of Rights) Act, 1966. The said circular further deals with the posting of the office bearers of the Association and their participation for election against posts in the district units of the Association. The said circular also refers to a notification dated 20.07.1960, namely, the Bihar Government Servants (Recognition of Service Association) Rules, 1960. The said Rules deal merely with the recognition of service associations. Rule 4 of the said Rules lays down condition for recognition of service association and Rule 5 lays down the conditions subject to which the recognition is granted.

7. Merely, recognition under the Rules of a Service Association cannot confer upon such body, status of State within the meaning of Article 12 of the Constitution of India. The Bihar Police Act, 2007 has been enacted to regulate establishment and management of the police service in the State of Bihar. No provision under the said act refers to any public function of an association member of the police force. The recognition which is granted to a service association including Bihar Police Men's Association is governed by the Bihar Government Servants (Recognition of Service Association) Rules, 1960.

8. This Association which has apparently been



established to look after the welfare of its members cannot be said to be discharging any important public function making it amenable to writ jurisdiction under Article 226 of the Constitution.

9. In view of the foregoing discussions, we are of the considered view that Bihar Police Men's Association is not a State within the meaning of Article 12 of the Constitution of India nor does it discharge any important public function making it amenable to writ jurisdiction.

10. In the present case, election dispute of a private association is being raised by the petitioner in a proceeding under Article 226 of the Constitution of India, which is thoroughly misconceived.

11. Accordingly, this application is dismissed.

12. Interlocutory application if any stands disposed of.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

K.K.RAO/-

AFR/NAFR	NAFR
CAV DATE	N/A
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