

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14523 of 2021

Radha Krishna Mishra Son of Late Ramapati Mishra, resident of Village -
Bakrour, Post - Bakrour, P.S. - Bodh Gaya, Distt.- Gaya.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Art, Culture and Youth Department, Govt. of Bihar, Patna.
3. The Secretary, Ministry of Youth Affairs and Sports, Govt. of India, New Delhi.
4. The Director, Bharat Scouts and Guides, National Head Quarters, Lakshmi Mazumdar Bhawan, 16, Mahatma Gandhi Marg, Indraprastha Estate, P.O. Box No. 7043, New Delhi- 110002.
5. The President, Bharat Scouts and Guides, National Head Quarters, Lakshmi Mazumdar Bhawan, 16, Mahatma Gandhi Marg, Indraprastha Estate, P.O. Box No. - 7043, New Delhi- 110002.
6. The Chief National Commissioner, Bharat Scouts and Guides, National Head Quarters, Lakshmi Mazumdar Bhawan, 16, Mahatma Gandhi Marg, Indraprastha Estate, P.O. Box NO. 7043, New Delhi- 110002.
7. The Assistant Director, The Bharat Scouts and Guides, Eastern Regional Headquarters, Old Jessore Road, P.O.- Ganganagar, Kolkata, West Bengal - 700132.
8. The State Chief Commissioner, Bihar State Bharat Scouts and Guides, Buddha Marg, Patna.
9. The State Commissioner, Bihar State Bharat Scouts and Guides, Buddha Marg, Patna.
10. The State Secretary, Bihar State Bharat Scouts and Guides, Buddha Marg, Patna.

... .. Respondents

Appearance :

For the Petitioner : Mr. Ashhar Mustafa, Advocate
Mr. Abu Nasar, Advocate

For the Respondent State: Mr. Sanjay Kumar AC to SC-18



For Respondent No.3 : Mr. R.K.Sharma, C.G.C.
Ms. Komal Chowbey, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

**and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

4 11-04-2022 There does not appear to be much dispute over the legal position that Bharat Scouts and Guides is not a 'State' within the meaning of Article 12 of the Constitution of India. This writ application has been filed seeking quashing of a letter dated 08.07.2021 to the extent it resolves to conduct election of the office bearers of the State Council of Bihar Scouts and Guides, namely, President, Vice-President and State Chief Commissioner.

Mr. Ashhar Mustafa, learned counsel appearing on behalf of the petitioner has submitted that even if the Bharat Scouts and Guides is not a 'State' within the meaning of Article 12 of the Constitution of India, since it discharges public function, this writ application under Article 226 of the Constitution of India is maintainable and necessary writ may be issued depending on the facts and circumstances. He has relied on Supreme Court's decisions in case of *Andi Mukta Sadguru Shree Muktajee Vandas Swami Suvarna Jayanti Mahotsav*



Smarak Trust v. V.R. Rudani, reported in (1989) 2 SCC 691, ***Jatya Pal Singh v. Union of India***, reported in (2013) 6 SCC 452 and ***Board of Control for Cricket v. Cricket Assn. of Bihar***, reported in (2016) 8 SCC 535 in support of his submission.

There is no controversy over the legal position that a writ petition under Article 226 of the Constitution of India can be maintained even against a body, which is not a ‘State’ within the meaning of Article 12 of the Constitution of India, if it discharges public function.

In the present case, the question is as to whether this Court should entertain the present writ application which primarily relates to the election of office bearers of the State Council of Bihar Scouts and Guides.

Learned counsel for the petitioner has informed us that during the pendency of this application, the elections have already taken place and the office bearers have been elected.

In any view of the matter, we are not inclined to go into the disputes relating to election of office bearers of Bihar Scouts and Guides.

Faced with the aforesaid situation, learned counsel for the petitioner seeks liberty to approach appropriate forum/court/authority for resolution of dispute relating to the



election in question.

This writ application stands disposed of, accordingly,
with the aforesaid liberty.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

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