

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6112 of 2023

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Aryavarta Mahasabha Foundation through its Secretary, Dharmendra Kumar Singh, Gender- Male, aged about 43 years, Son of Sri Krishna Singh, resident of Village and Post Mashriksh, Gopalwadi, P.S. Mashrak, District - Chapra at Saran, Bihar, PIN - 841718.

... .. Petitioner/s

Versus

1. The Union of India Ministry of Home Affairs, through its Secretary, North Block, New Delhi - 110001.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Principal Secretary, Home Department, Government of Bihar, Patna.
4. The Principal Secretary, Excise and Prohibition Department, Government of Bihar, Patna.
5. The Director General of Police, Government of Bihar, Patna.
6. The Inspector General of Police, Saran Range, Chapra.
7. The Superintendent of Police, Saran at Chapra.
8. The Station House Officer, Mashrak Police Station, Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pawan Prakash Pathak, Advocate
Mr. D.K.Singh, Advocate
Mr. Pramendra Kumar Singh, Advocate
Mr. Rakesh Kumar Ranjan, Advocate
Mr. Niraj Kumar, Advocate

For the UOI : Mr. Naresh Dixit, Sr. Panel Counsel

For the State : Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)



Date : 21-07-2023

The writ petition in the nature of Public Interest Litigation essentially seeks an Independent Special Investigation Team for the purpose of investigation into a hooch tragedy. There are also prayers made for a direction to the respondents to formulate a national plan to curb the manufacturing, trading and sale of illicit liquor, to compensate the victims' family, to make the official inactions leading to such tragedies the vicarious liability of the State, to bring to book the persons who act in collusion, perpetuating the sale and supply of liquor within the State of Bihar and also to direct the registration of an FIR on the complaint filed by the petitioner's association in the Mashraikh Police Station.

2. We have to, at the outset, point out that very wide prayers are sought for, which, unfortunately, would not be possible in a writ petition under Article 226 of the Constitution of India, however, great the public interest may be. This Court would be unable to direct framing of a policy by the Government having a national or regional impact, especially going by the decision of the Hon'ble Supreme Court in **Census Commissioner & Ors. vs. R.Krishnamurthy; (2015) 2 SCC 796.**



3. It is also to be noticed that there is a prohibition within the State of Bihar and the same is being implemented by its officials, both at the level of the Excise and the Police. The petitioner also has made reference to the prohibition having resulted in manufacture of illicit liquor; which, however, is not a ground on which alone the policy of the Government can be interfered with. The petitioner cites figures with respect to representation of FIRs and the arrests made from 2018 to 2020 clearly indicating that the Police and Excise are vigilant, insofar as the prohibition is concerned.

4. We need not enter into the policy domain and we confine ourselves to the complaint raised of a hooch tragedy within the jurisdiction of the Mashrakh Police Station and we steer clear of the statistics insofar as the reported incidents in the various States, other than the State of Bihar; over which we have absolutely no jurisdiction.

5. The Deputy Commissioner (D.W.), Prohibition, Excise and Registration Department, has filed an affidavit dated 02.05.2023, wherein it has been stated that in the hooch tragedy, which took place on 13.12.2022, the toll of death was 42 (forty two). The District Administration had constituted a Survey Team to conduct the survey in Isuapur, Amnaur, Mashrak and



Madhaura Block and also carry out raids to identify persons who indulged in storage, trade, distribution etc. of illicit liquor, together with a medical team comprising doctors, ambulance and other departmental personnel deputed to take care of the affected persons. A survey was conducted of 1353 households on 14.12.2022 itself by the Medical Officers and Block Health Manager, Mashrak to identify persons who had suffered due to consumption of spurious liquor. Twenty five persons were arrested on 13/14.12.2022 from the location in which the hooch tragedy occurred and 23 other persons from the nearby localities. The Excise Department, between April, 2022 to December, 2022, conducted 9677 raids wherein 3553 persons were arrested and 95126 litres of illicit was recovered and seized.

6. The Police Department had also registered 92 cases on the basis of 2464 raids between 01.12.2022 to 14.12.2022; wherein 464 accused persons were arrested and 17396.9 litres of spurious liquor and 18 vehicles used for carrying on the business were recovered and seized. To emphasise that raids were not started after the hooch tragedy, it has been stated that between 01.12.2022 and 14.12.2022, there were 3450 cases registered in Saran District on the basis of



60033 raids, 9104 accused persons were arrested and 191188.1 litres illicit liquor was recovered.

7. An operation titled as 'Operation Clean Drive' was launched by the District Administration, Saran on 16.12.2022 with active participation of the S.H.Os of all the Police Stations in the District. This operation is going on and the Mashrak Police Station case registered as Mashrak P.S.Case No. 583/2022 dated 14.12.2022, is being investigated. Many named in the FIR have been arrested and there are steps taken to arrest the absconding persons. A charge sheet No. 133 dated 16.03.2023 also has been submitted against one of the accused and charge sheet against the others are underway.

8. Isuapur P.S.Case No. 280/2022 dated 14.12.2022 has also been registered and similar action taken. Charge sheet No. 81/2023 and supplementary charge sheet 129/2023 dated 21.03.2023 have been laid in Isuapur P.S.Case No. 280/2022. Reference is also made to Madhaura P.S.Case No. 807/2022 dated 18.12.2022, Amnaur P.S.Case No. 377/2022 and Derni P.S.Case No. 240/2022 dated 18.12.2022.

9. It is also submitted that there was a compensation of Rs. 4 lacs granted to the families of the deceased whose death was by the reason of consumption of



spurious liquor; which funds were sourced from the Chief Ministers relief fund, where the District Administration was satisfied that death occurred due to the consumption of spurious liquor. The Superintendent of Police, Saran has also filed an affidavit dated 06.07.2023 specifically adverting to the investigation carried out in the FIR registered; the forensic analysis done; the raids conducted and the further efforts to not only bring to book the accused in the specific instances but also to curb the manufacture and sale of illicit liquor. It is stated that between 02.10.2016 and 30.04.2023 during the period in which there was prohibition within the State of Bihar, the police have registered 3,88,137 cases; arrested 5,72,561 persons and seized and destroyed 1,98,04,557 litres of illicit liquor. The latest technology including breath analyzers, sniffer dogs and drones etc are being used to check the manufacture of spurious liquor. The Superintendent of Police specifically controverts the allegation regarding 'scathing criticism' and 'failure to implement the ban' based on the above statistics.

10. We are satisfied that enough steps have been taken to book the culprits relating to the hooch tragedy and the State is taking every step to implement prohibition as also to curb further incidents of hooch tragedy by initiating regular



raids and prevention of manufacture and sale of illicit spurious liquor.

11. We, hence, close the above writ petition.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	27.07.2023
Transmission Date	

