

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.979 of 2022

Arising Out of PS. Case No.-479 Year-2022 Thana- BAGHA District- West Champaran

Sudhir Kant Shukla Son Of Visheshwar Shukla R/O Shukla Tola, Ward No. 15, Chanpatia, Ps- Chanpatia, Dist- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Chief Secretary, Home, Govt of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Deputy Inspector General, West Champaran, Betia, Bihar.
5. The Superintendent of Police, Bagaha, Dist- West Champaran, Bihar.
6. The Deputy Superintendent of Police, Bagaha, Bihar.
7. The S.H.O, Bagaha Police Station, Bagaha, Dist- West Champaran.
8. The Incharge District Welfare Officer, West Champaran, Betia.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Surendra Kumar Singh, Adv.
For the Respondent/s : Mr. Sheo Shankar Prasad, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 03-05-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

Counsel for the petitioner submits that the present Cr.
Writ application has been filed for quashing of F.I.R. of Baagha
P.S. Case no.479 of 2022, registered on 06.07.2022, under
sections 409, 420 of the Indian Penal Code. The further prayer
has been made for conducting high level inquiry with respect to
fraud conducted by the respondent District Welfare Officer,
Bettiah, by adding the name of the petitioner in the name of the

accused. It has also been prayed to grant stay on the further proceeding of Baagha P.S. Case no.479 of 2022. In addition to that the prayer has been made to adjudicate and hold in the facts of the case lodging substantive criminal case against the firm of the petitioner. The respondent should have made through the enquiry with participation of the petitioner. It has also been prayed that the respondents are not justified in lodging criminal prosecution against the firm of the petitioner without any enquiry and findings of the case. It has also been prayed that it behold that taking decision against the firm is an act of malafide and arbitrary exercise of the authorities, particularly when no enquiry was conducted, with respect to the petitioner.

Counsel for the petitioner submits that petitioner is non-Government organisation, which has been established for the purpose of rendering social service for the upliftment of the down trodden poor and needy deprived section of the society. Counsel for the petitioner submits that petitioner is a Secretary of an N.G.O. and he disclosed that the said N.G.O. registered under Society of Registration Act. He submits that the said N.G.O. never made profit out of its services and with the charitable work, the petitioner on his own used to make provision of books, utensils, periodical free medical check-up

and Medical aid etc.

Counsel further submits that the petitioner used to take various works under different projects, with the aim to serve weaker section of the society, including the orientation of S.C./S.T. It has mentioned that the District Welfare Committee West Champaran has written a letter no. 1056 dated 18.12.2015, to the Acting Principal of the SC/ST Residential School, Chautarwa/Medraul/Sidhanv, whereby the petitioner's organisation named Dauli Shiksha Sah Samaj Kalyan Sansthan in a special case authorised for the purpose of providing security service to newly constructed abandoned building of the Government Residential School constructed for S.C./S.T.

Counsel for the petitioner submits that the said N.G.O. was appointed/authorised for providing computer and vocational training in different schools, which is annexed in Annexure-3.

Counsel submits that upon assignment from the work from District Welfare Officer as well as Deputy Magistrate, the petitioner N.G.O. started discharging its noble duties on the basis of no profit and no loss, in the larger interest of the students and there has never been any complaint against the working of the said N.G.O.

Counsel further submits that the petitioner N.G.O. was authorised for providing security guards in the Government SC/ST Residential Schools located at Madhubani (Ramnagar), Bhirbhiriay (Mainataand), Belsandi (Gaunaha), Kadamhawa (Bagaha), as mentioned in the Annexure-4.

Counsel submits that when the petitioner's organisation was not willing to work for the supply of security guards but on the personal request of the then District Welfare Officer, in special case, considering the necessity and the request of District Welfare Officer, West Champaran, Bettia, the petitioner provided certain guards on the basis of no profit/no loss as the payment received from the Department was directly given to Security Guards. Counsel submits that not a single penny has come to the petitioner's account, therefore, the petitioner is completely innocent and has committed no offence.

Counsel for the State submits that counter-affidavit has been filed and it has come during investigation and supervision, the role of the petitioner has shown as he has supplied the security guards and cleaning staff in the month of January, 2019. Subsequently, when it came to the knowledge of the officials that requite license from the Home Department lacking in the case of the petitioner thereafter terminated the

services of the said N.G.O. took place Counsel also submits that in addition to the present case, one more case is pending against the petitioner bearing Betia Town P.S. Case No. 755 of 2019 dated 16.10.2019 under Sections 420, 467, 468, 471, 419/34 of the Indian Penal Code. In the said case also, according to the counsel for the State, the petitioner has been charge-sheeted (about which counsel for the petitioner is claiming that no chargesheet has been filed).

Upon going through the documents and the pleadings, it transpires to this Court that the petitioner himself admits that he provided security guards, on the personal request of District Welfare Officer, West Champaran.

It also transpires to this Court that at the time of providing any services to a Government organisation, the question of personal request of District Welfare Officer has no role, which itself is the subject of scrutiny of the case that under what circumstances, the petitioner has provided the services on the personal request of the District Welfare Officer, Government Department. In addition to that, in the F.I.R. also it has come that the security provided by the petitioner has no requisite license from the Home Department. Under the Security Law, taking license from the Home Department is mandatory for the

welfare of the security and organisation both.

In this view of the matter, this Court is of the view that investigation is required in this case and at this level, this Court is not inclined to interfere in this matter.

Liberty is hereby granted to the petitioner that he may raise his grievances at further stage of investigation and trial.

(Dr. Anshuman, J.)

Ashishsingh/-

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