

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1640 of 2023

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

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Jitendra Kumar Yadav

... .. Petitioner

Versus

The State of Bihar through the Additional Chief Secretary, Home Department,
Govt. of Bihar, Patna & Ors.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Siyaram Sahi, Advocate Mr. Bhola Kumar, Advocate
For the Respondent/s	:	Mr. Deepak Kumar, AC to GP-4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 22-12-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

2. Petitioner in this case is aggrieved by and dissatisfied with the communication contained in Memo No. 12407 dated 25.08.2023 issued under signature of the Senior Superintendent of Police, Patna. By the said communication, the petitioner has been informed that in the meeting of the Special Security Committee held under the Chairmanship of the Additional Director General of Police, (Security, Bihar) on 16.08.2023, the Committee has taken a decision not to provide a security guard to the petitioner. The security guard/bodyguard provided to the petitioner has been withdrawn.

3. Learned counsel for the petitioner submits that the



petitioner is a businessman, a social worker and is a political leader also. He is also spokesperson of a major opposition party in the State of Bihar.

4. It is the case of the petitioner that he has been earlier attacked by criminals and he has constant threat to his life and property. He has lodged FIR bearing Jakkanpur P.S. Case No. 156 of 2013 under Section 386 Indian Penal Code against an infamous history-sheeter, namely, Ajay Verma of the area. The said case has been investigated and found true. Considering the threat to his life, two bodyguards were deputed with him in the year 2015 but they were withdrawn in the year 2016 during *Panchayat* elections with an assurance that after completion of *Panchayat* election, the bodyguards should again be provided to the petitioner.

5. Learned counsel points out that in the joint report, the Senior Superintendent of Police, Patna and Deputy Superintendent of Police, Special Branch, Town, Patna reported by Memo No. 11106 dated 29.09.2017 the threat perception of the petitioner and recommended that bodyguard be provided to him on payment basis. When no action was taken on the basis of the said recommendation, the petitioner moved this Court in CWJC No. 12880 of 2017. This Court directed the Special



Security Committee, Bihar to consider the case of the petitioner whereafter in its meeting dated 16.05.2018, the said Committee decided to provide a bodyguard to the petitioner on payment basis. Consequently, an armed bodyguard was deputed with the petitioner. It is stated that the petitioner has made payment on various occasions.

6. It is further submitted that for no plausible reason when the bodyguard was withdrawn vide Memo No. 3687 dated 16.03.2020, the petitioner was constrained to approach this Court once again in CWJC No. 1283 of 2021. It is also pointed out that on 27.02.2021, an unknown bike rider stopped and fired at the petitioner in the night and his private bodyguard received firearm injury on his right leg. Jakkanpur P.S. Case No. 108 of 2021 under Section 307 of the Indian Penal Code and Section 21 of the Arms Act has been registered in this regard.

7. It is stated that CWJC No. 1283 of 2021 was disposed of with certain directions to the respondents and thereafter when no action was taken, a contempt application was filed before this Court. Thereafter, again the Special Security Committee in its meeting dated 19.07.2022 decided to allot one armed bodyguard to the petitioner on payment basis for a period of three months.



8. Learned counsel submits that the petitioner had to once again approach this Court in Cr.W.J.C. No. 1476 of 2022 because of certain disputes over the bodyguard. Ultimately, he was provided a bodyguard again on payment basis. Cr.W.J.C. No. 1476 of 2022 was disposed of vide order dated 13.07.2023. A copy of the same is available on the record as Annexure 'P/14'. This Court directed inter-alia that the security guard which has been provided to the petitioner on payment basis and is continuing right now shall not be withdrawn till a final decision is taken by the Special Security Committee, Bihar.

9. Learned counsel for the petitioner has assailed Annexure 'P/15' to the writ application on the ground inter-alia that no reason for withdrawal of the security guard/bodyguard of the petitioner has been provided in Annexure 'P/15'. It is not known what prevailed upon the Special Security Committee to disapprove the deputation of a bodyguard on payment basis to the petitioner. Learned counsel submits that in India we follow the principles of *parens-patriae* wherein the State acts as a parent of its citizen and it is the responsibility of the State to protect the life, liberty and property of its' citizen. In a case where the petitioner has been asked to pay *rangdari* by a history-sheeter and the said case has been found true and further that his private



bodyguard suffered the firearm injury when unknown criminal attempted to kill the petitioner, it is now known as to why the Special Security Committee, Bihar has taken such a decision.

10. Learned counsel submits that the resolution as contained in Memo No. 3663 dated 2nd May, 2017 issued by the Department of Home (Special Branch) discusses certain aspect of the provisions of a security guard and the basis for providing the security guard. So far as the petitioner is concerned, he had been provided bodyguard on payment basis and it did not involve any cost to the State. The submission is that under such circumstance, the Special Security Committee was obliged to consider the threat perception of the petitioner and any decision in this regard should have been taken with due opportunity to the petitioner to explain his threat perception. Annexure 'P/15' is a completely unreasoned order which has a huge civil consequence to the life of the petitioner.

11. Learned counsel for the State submits that even as Annexure 'P/15' is not providing any reason but as per Clause '5' of Memo No. 3663, if the petitioner is aggrieved by and dissatisfied with the decision of the Special Security Committee, he may appeal to the Central Security Committee within a period of thirty days from the date of the order of the Special



Security Committee.

12. Having heard learned counsel for the petitioner and the State as also on perusal of the records, this Court finds much force in the submission of the learned counsel for the petitioner. The State has to follow the principles of *parens-patriae*. The petitioner has been earlier provided security guards on payment basis. In terms of its policy contained in Resolution No. 3663, the State has to take a decision but such decisions are to be taken with sole intention to protect the life, liberty and property of a citizen. In the present case, Annexure 'P/15' does not provide any reason as to why the Special Security Committee would disapprove the continuation of a bodyguard with the petitioner on payment basis. *Prima-facie*, the petitioner has got threat to his life. Since, this Court has been informed that after intimation, contained in Annexure 'P/15', the bodyguard of the petitioner has already been withdrawn, this Court directs the Senior Superintendent of Police, Patna to restore the bodyguard to the petitioner forthwith on payment basis.

13. The petitioner is given liberty to prefer an appeal before the Central Security Committee within a period of thirty days from today. If the appeal is preferred within the given



period, the bodyguard shall be allowed to continue till a final decision is taken by the Central Security Committee. Continuance of the bodyguard shall depend upon the decision of the Central Security Committee but it is made clear that whatever decision is taken by the Central Security Committee that must be a reasoned one and any representation of the petitioner in this regard shall be duly considered while taking a decision. The decision so taken shall be communicated to the petitioner immediately thereafter.

14. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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