

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3813 of 2024

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Uday Kumar Singh, Son of Late K.N. Singh, Resident of Village- Abhinandan Bhawan, P.S.- Ashiyana Nagar, P.S.- Rajeev Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Chief Minister, Secretariat through its Principal Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Chief Minister Secretariat, Government of Bihar, Patna.
4. The Social Welfare Department, through its Principal Secretary, Government of Bihar, Patna.
5. The Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
6. The Law Department through its Secretary, Government of Bihar, Patna.
7. The Cabinet Secretariat Department, Government of Bihar, Patna.
8. The General Administrative Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kunal Tiwary, Advocate

For the Respondent/s : Mr. P. K. Shahi, AG

Mr. Amish Kumar, AC to AG

Mr. Sanjiv Kumar, AC to AG

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 15-03-2024

Heard the parties.

2. The petitioner, who is a practicing advocate and claiming to be a social worker, has filed the present writ petition by way of Public Interest Litigation seeking a direction upon the respondent authorities to introduce a new Act in Bihar similar to that of “the Maintenance and Welfare of Parents and Senior



Citizen Act, 2007 as well as Amendment Act, 2019 and the Assam Employees' Parent Responsibility and Norms for Accountability and Monitoring Act, 2017". Further direction has also been sought for effective implementation of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and to provide all the basic essential facilities to the elderly/senior citizens of the State of Bihar for enforcement of their rights under Article 21 of the Constitution of India.

3. Referring to various provisions of different Acts besides the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (hereinafter referred to as 'the Act, 2007') submission has been made that the maintenance of the family especially the parents or senior citizens is an indispensable obligation which every son and daughter are obliged to perform. It has further been argued that the highest Court of land in the case of **Ashwani Kumar Vs. Union of India & Others, (2019) 2 SCC 636** has clearly announced the verdict for formulating the integrated programme for senior citizens. It has further been held that rights of elderly persons/senior citizens having their fundamental right under Article 21 of the Constitution of India, which right also includes right to live with dignity and thus the Hon'ble Supreme Court has held that continuous mandamus is required to be issued in order to ensure social justice postulated



by the preamble. It has also been informed to this Court that the Government of Assam in order to protect its senior citizens has notified in Assam Employees' Parent Responsibility and Norms for Accountability and Monitoring Act, 2017 (hereinafter referred to as 'the Act, 2017') prescribing maximum 15% of the employee's salary to be contributed to different aspect of welfare and maintenance of senior citizens, if the child of such senior citizen neglects to maintain such senior citizen.

4. Adverting to the aforesaid facts, the petitioner sought a writ of mandamus from this Court to introduce a similar Act in the State of Bihar.

5. The petitioner, a practicing lawyer, seeks a writ of mandamus to the legislature to legislate on a particular subject when the Constitution does not confer such power. It is well settled that a writ Court cannot direct the legislature to legislate nor has it any competence to issue direction to the legislature to enact law in a particular manner. Moreover, the issue in relation to rights of elderly persons/senior citizens and the effective enforcement of the maintenance and welfare of parents and Senior Citizens Act is taken care of by the Hon'ble Supreme Court in the case of **Ashwani Kumar** (supra) wherein, inter alia, in terms of Section 30 of the Act, 2007 directed the Government of India to issue appropriate directions to the State



Governments to carry out and execute the provisions of the Act, 2007. The Hon'ble Supreme Court also directed the Union of India to obtain necessary information from all the State Governments and the Union Territories about the number of old age homes, the medical facilities and the Union of India would also obtain from all the State Governments, the status regarding medical facilities and geriatric care facilities that are available to senior citizens in each district.

6. Further on the basis of the information as would be gathered by the Union of India as detailed in the status reports, an action plan is to be prepared for making the senior citizens aware of the said welfare provisions of the Act, 2007 and the constitutional as well as statutory rights of senior citizens. It is to be noted that the aforementioned Public Interest Litigation is still pending, thus had the petitioner any genuine concern, he should have approached the Hon'ble Supreme Court.

7. Learned Government Advocate also informed this Court that in exercise of power conferred under Section 32 of the Act, 2007, the Government of Bihar has incorporated the Bihar Maintenance and Welfare of Parents and Senior Citizens Rules, 2012, which has been duly notified in the Official Gazette on 07.09.2012 itself and thus, the State Government is



taking all necessary steps to enforce the provisions of the Act, 2007 and the Rules made in relation to Maintenance and Welfare of Parents and Senior Citizens.

8. In view of the aforementioned facts, this Court finds that the present Public Interest Litigation, is a misuse of the process and the same has been filed without any in-depth preparation, sincerity and seriousness, which are at least expected from an Advocate of the Bar.

9. This Court though inclined to dismiss the writ petition with exemplary cost, considering only the fact that the petitioner is a practicing lawyer and, as such, the writ petition is dismissed with caution to the petitioner.

(Harish Kumar, J)

K. Vinod Chandran, CJ: I agree

(K. Vinod Chandran, CJ)

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AFR/NAFR	NAFR
CAV DATE	05.03.2024
Uploading Date	15.03.2024
Transmission Date	NA

