

Khatri and Others (Ii)

Vs

State of Bihar and Others

Writ Petition Nos. 5670 etc. of 1980

(P. N. Bhagwati, A. P. Sen JJ)

14.01.1981

ORDER

P. N. BHAGWATI, J. -

1. This case comes up again before us and the principal question that has been debated on this occasion is whether certain directions given by us by our earlier order dated December 19, 1980 (See (1981) 1 SCC 627) have been carried out by the State of Bihar. We shall presently examine how far and to what extent these directions have been complied with by the State but, before we do so, we must deal with a problem which has arisen on account of the disinclination of the Blind Relief Association, Delhi to keep the blinded prisoners in the Home run by them at Lal Bahadur Shastri Marg, New Delhi. We had suggested in our order dated December 19, 1980 that the blinded prisoners who are discharged from the Rajendra Prasad Ophthalmic Institute, New Delhi should be kept in the Home which is being run by the Blind Relief Association, Delhi, but it seems that the Blind Relief Association, Delhi has expressed its willingness to keep them in the Home run by them. We are told by Mrs. Hingorani appearing on behalf of the petitioners that consequently fifteen blinded prisoners who are discharged from the Rajendra Prasad Ophthalmic Institute have been accommodated temporarily in the Christ Church Hostel while three other blinded prisoners are still undergoing treatment at the Rajendra Prasad Ophthalmic Institute. The question, however, is as to how the cost of lodging and boarding of these fifteen blinded prisoners and possibly also of the remaining three blinded prisoners when they are discharged, is going to be borne and who is going to pay the charges of the Christ Church Hostel. We do not think that the question need detain us because in our order dated December 19, 1980, we had directed that the State should pay by way of advance or otherwise as may be required, the costs, charges and expenses of maintaining the blinded prisoners in the Home which is being run by the Blind Relief Association, Delhi, and since the blinded prisoners are now being kept in the Christ Church Hostel instead of the Home run by the Blind Relief Association, Delhi, it is but fair and just that the reasonable costs, charges and expenses of maintaining the blinded prisoners in the Christ Church Hostel should also be paid by the State until they are removed to another place. We would therefore direct that the concerned officer of the State Government should go to the Christ Church Hostel and settle the reasonable costs, charges and expenses of lodging and boarding of the blinded prisoners in the Christ Church Hostel. We are told that there is a blind relief association at Lajpat Nagar, New Delhi which is prepared to admit the blinded prisoners and look after them. We think that it would be desirable to transfer the blinded prisoners from the Christ Church Hostel to the institution which is being run by the Blind Relief Association at Lajpat Nagar, New Delhi so that the blinded prisoners may receive proper vocational training which would relieve, to the extent possible, the hardship and handicap arising out of blindness. We would therefore direct that the blinded prisoners may be removed to the institution run by the Blind Relief Association at Lajpat Nagar, New Delhi and they may be kept in that

institution and given proper vocational training at the cost of the State of Bihar. We would also suggest that Mrs. Hingorani as also the State may make efforts to find out if there is any institution for the blind in Bihar which is prepared to keep the blinded prisoners and give them vocational training. If any such institution can be found, we would direct that the blinded prisoners should be taken and kept in such institution at the cost of the State Government. The State Government will bear the cost of maintaining the blinded prisoners in the institution run by the Blind Relief Association at Lajpat Nagar or in any other institution to which the blinded prisoners may be removed pursuant to this order until such time as they are required in connection with the trial of the case against them or until any further order is made by this Court. If for any reason the blinded prisoners have to go back to the jail, we direct that they should be given proper vocational training in the jail, so that, even in the jail, they can engage themselves in productive activity and earn money for themselves and the members of their families and on discharge from the jail, become useful members of the society. We are told by Mr. K. G. Bhagat, learned Advocate appearing on behalf of the State of Bihar that on an erroneous view of an earlier order passed by us staying the trial of the blinded prisoners, the police are not proceeding with the investigation of the offences charged against the blinded prisoners and he therefore urged that we should qualify our Order so as to make it clear that the investigation is not injuncted by the court. We think that the order made by us is quite clear and it merely stays the trial of the blinded prisoners and does not restrain the police from proceeding with the investigation of the offences alleged to have been committed either by the blinded prisoners or by the police. We are in fact of the view that the investigation of the offence alleged to have been committed whether by the blinded prisoners or by the police should be proceeded with expeditiously and the guilty should be brought to book without any avoidable delay. We would indeed suggest that having regard to the physical handicap from which the blinded prisoners are suffering, investigation into the offences alleged to have been committed by the blinded prisoners as also by the police may be completed and charge-sheet if any may be filed against them, as far as possible, within a period of three months from today. We may make it clear that it would be open to the police as also any other Investigating Authority to examine the blinded prisoners and record their statements at the place where they are lodged for the time being and if it should become necessary to take them to any place in the Bhagalpur District for the purpose of investigation it would be open to the State Government to make an application to this Court for permission to do so after giving twenty-four hours notice to Mrs. Hingorani, learned Advocate appearing on behalf of the petitioners. We made an order earlier staying the trial of the blinded prisoners because they were directed to be brought to Delhi for the purpose of treatment at the Rajendra Prasad Ophthalmic Institute and additionally, Mrs. Hingorani wanted to contend that they should not be tried at all for the offences alleged to have been committed by them. We are going to hear the learned Advocates appearing on behalf of both sides on this contention and at the time when we adjudicate upon this contention we shall decide whether the order made by us staying the trial of the blinded prisoners in case charge-sheet is filed against them, should be vacated or not, but in the meanwhile investigation must proceed and be completed as far as possible within three months from today.

2. We had directed the Registrar (Judicial) by our Order dated January 8, 1981 to make enquiry from the blinded prisoners who are in the Christ Church Hostel and in the Rajendra Prasad Ophthalmic Institute as to whether they want to remain in Delhi or they want to go back and if so, where. Pursuant to this direction given by us, the Registrar (Judicial) proceeded to make the enquiry and his report shows that out of the fifteen blinded prisoners in the Christ Church Hostel, fourteen want to remain in Delhi while only one namely Lakh Mahto who is one of the petitioners in Writ Petition 5352 of 1980, wants to go back to his village in Bhagalpur District. So far as the other two

blinded prisoners in the Rajendra Prasad Ophthalmic Institute are concerned, there is no question of their going back since they would be shortly undergoing operation at the Rajendra Prasad Ophthalmic Institute. There is, according to the report of the Registrar (Judicial), one more blinded prisoner, namely, Baljit Singh who is undergoing treatment for ankle injury at the All India Institute of Medical Sciences and he is thereafter required to undergo treatment at the Rajendra Prasad Ophthalmic Institute and hence he also cannot go back. Since out of the fifteen blinded prisoners in the Christ Church Hostel, fourteen want to remain in Delhi, they may be allowed to continue to remain in Delhi subject to the directions given in the preceding paragraph and so far as the fifteenth blinded prisoner, namely, Lakhi Mahto is concerned, he should be provided by the State, within one week from today, with a ticket and other facilities for going back to his native place in Bihar. The direction is given by us earlier in regard to the treatment to be given to the two blinded prisoner in the Rajendra Prasad Ophthalmic Institute and the third blinded prisoner in the All India Institute of Medical Science shall continue to be carried out by the State.

3. It seems that out of the fifteen blinded prisoners who are presently in the Christ Church Hostel, ten have received the sum of Rs. 300 ordered to be paid to each of them by the State Government, but the remaining five have not yet been paid. We would therefore, direct the concerned officer of the State Government to go to the Christ Church Hostel and pay the sum of rupees three hundred to each of the five remaining blinded prisoners after identification by Reverend Wilson or his wife or Reverend Yusuf Singh who are the persons in charge of the Christ Church Hostel. Since the blinded prisoners have no warm clothing to protect themselves against the cold, we direct that such warm clothing as is ordinarily supplied to prisoners in jails during winter months, should be supplied to the blinded prisoners at the cost of the State Government and the appropriate officer of the State Government in Delhi should comply this direction within three days from today.

4. Mrs. Hingorani appearing on behalf of the petitioners submitted that whilst the eighteen blinded prisoners, fifteen in the Christ Church Hostel, two in the Rajendra Prasad Ophthalmic Institute and one in the All India Institute of Medical Sciences, were in Delhi, they should be got examined by Dr. Madan Mohan of the Rajendra Prasad Ophthalmic Institute for the purpose of obtaining as to the method and manner in which they were blinded, if it was medically possible to do so. We think that a submission made by Mrs. Hingorani is reasonable and justified and it would definitely help the court in arriving at a proper determination of the question whether the fundamental right of the blinded prisoners under Article 21 was violated by the blinding effected by the police. We therefore direct that the eighteen blinded prisoners who are in Delhi shall be examined by Dr. Madan Mohan at the Rajendra Prasad Ophthalmic Institute for the purpose of determining, if it is medically possible to do so, as to what was the method or manner in which, the opinion of Dr. Madan Mohan, these blinded prisoners appear to have been deprived of their vision. We would request Dr. Madan Mohan to give his opinion to us on or before January 20, 1981. These blinded prisoners will be produced before Dr. Madan Mohan within two days from today.

5. With these directions we adjourn the hearing of the writ petition to January 15, 1981.

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