

Peoples' Union For Democratic Rights

Vs

State of Bihar and Others

Writ Petition (Criminal) No. 369 of 1986

(Ranganath Misra, M. M.Dutt JJ)

19.12.1986

JUDGMENT

RANGANATH MISRA, J. -

Peoples' Union for Democratic Rights, an organisation said to be committed to the upholding of fundamental rights of citizens had filed this application under Article 32 of the Constitution. It is alleged that on April 19, 1986, 600 to 700 poor peasants and landless people mostly belonging to the backward classes had collected for holding a peaceful meeting within the compound of Gandhi Library in Arwal, a place within the District of Gaya in the State of Bihar. Without any previous warning by the police or any provocation on the part of the people who had so collected, the Superintendent of Police, respondent 3 herein, reached the spot with police force, surrounded the gathering and opened fire as a result of which several people were injured and at least 21 persons including children died. The petitioner alleged that separate unofficial inquiries have been held into the atrocity and the reports indicated that the number of deaths was much more than 21 and there was no justification for the firing. It appears that there was a dispute relating to possession of 26 decimals of low lying land adjacent to the canal at Arwal and to such dispute members of a rich Rajak family on one side and members of nine poor families on the other were parties. Even though several people died and many more were injured by the ruthless and unwarranted firing resorted to by the police, to give a cover to the atrocities, the police started a false case being Arwal P. S. Case No. 59 of 1986 and therein implicated several innocent people including even some of the people who had been killed in the firing. Three specific prayers were made in the writ petition, namely :

- (1) To issue an appropriate writ or make an order or direction in the matter of payment of full and proper compensation to the victims-relations of the dead and to the people who were injured by police firing;
- (2) For a direction to withdraw the police case referred to above; and
- (3) For a direction to respondent 1 to settle the land in dispute with the nine poor families.

2. During the hearing of the matter, an additional relief was pressed, namely, this Court should give a direction for instituting a judicial inquiry into the alleged atrocity.

3. It may be pointed out that during the pendency of this writ application the State Government in response to the growing demand for a judicial inquiry into the matter directed an inquiry therein by Shri Vinod Kumar, Member, Board of Revenue, Bihar. The said inquiry has been completed and the

report has already been furnished to the government. On the orders of the Court, the report has been produced before this Court with a claim of privilege against disclosure thereof.

4. The incident drew a lot of publicity and attention both within the State as also outside. Coming to know about it, Shri B. D. Sharma, Assistant Commissioner for Scheduled Castes and Scheduled Tribes visited the locality and made a report. At the instance of the petitioner, that document was summoned and has been produced. In respect thereof the Union Government has also claimed privilege.

5. In the affidavits in opposition filed on behalf of the respondents the factual assertions raised in the writ petition have been disputed. It has also been brought to our notice that a writ petition has been filed before the Patna High Court prior to filing of this application under Article 32 before this Court and the writ petition in the High Court is still pending. Once this fact was brought to our notice, Mr. Mukhoty for the petitioner submitted that we should direct transfer of the writ petition pending in the High Court to this Court so that both the matters can be heard together. We are of the view that it would be appropriate that the matter is examined by the High Court. It would be convenient to the parties to produce material before the High Court on account of proximity; the High Court will be in a position to call for documents and, if necessary, affidavits of parties concerned as and when necessary while dealing with the matter; and without notice and without affording a reasonable opportunity to the parties in the writ petition before the High Court an order of transfer may not be appropriate. In these circumstances, we have not thought it proper to have the writ petition in the High Court transferred to this Court. On the other hand, we have considered it expedient and proper in the interest of justice to dispose of some aspects of the matter now and leave it open to the petitioner to canvass the other aspects by getting itself impleaded before the High Court in the pending writ petition or by the filing of an independent application.

6. There has been no dispute that as a result of the police firing 21 people died and several others were injured. The heirs and relations of a few of the dead people had been compensated by the State to the tune of Rs. 10,000 as found from the record. No justification has been indicated as to why the said compensation has not been given in every case of death or injury. It is a normal feature of which judicial notice can be taken that when such unfortunate consequences emerge even in police firing, the State comes forward to give compensation. Mr. Jaya Narayan, for the State candidly stated before us that it is not the intention of the State to deprive the relatives of some of the victims who succumbed to the injuries sustained by police firing from benefit of compensation. Ordinarily in the case of death compensation of Rs. 20,000 is paid and we see no reason as to why the quantum of compensation should be limited to Rs. 10,000. We may not be taken to suggest that in the case of death the liability of the wrongdoer is absolved when compensation of Rs. 20,000 is paid. But as a working principle and for convenience and with a view to rehabilitating the dependents of the deceased such compensation is being paid. We direct that :

(1) Without prejudice to any just claim for compensation that may be advanced by the relations of the victims who have died or by the injured persons themselves, for every case of death compensation of Rs. 20,000 and for every injured person compensation of Rs. 5000 shall be paid. Where some compensation has already been paid, the same may be adjusted when the amount now directed is being paid. These payments be made within two months hence.

(2) In case the petitioner gets impleaded in the pending writ petition before the High Court or files a separate writ petition and presses for disclosure of the report of Mr.

Kumar, the High Court may examine the question as to whether the report will be made public and in the event of privilege being claimed, the question of privilege will also be examined by the High Court.

(3) We have read the report furnished by the Assistant Commissioner of Scheduled Castes and Scheduled Tribes and since the report is not relevant to the point in issue, it is not necessary to ask the High Court to call for the report. We direct that the report be returned to the appropriate Ministry from where it has been brought.

(4) The investigation of the pending police case shall be completed within three months from now. In case charge-sheet is submitted, it would be open to the petitioner or any other aggrieved party to challenge the maintainability of the charges in accordance with law.

7. The writ petition is disposed of with the aforesaid directions. The parties shall bear their own costs.

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