

SUPREME COURT OF INDIA

Pramod Kumar

Vs.

Bihar Vyavasayik Sangharsh Morcha

C.A.Nos.3886-3887 of 2007

(Dr. Arijit Pasayat and Altamas Kabir JJ.)

24.08.2007

JUDGMENT

Dr. ARIJIT PASAYAT, J.

1. Leave granted.

2. Challenge in these appeals is to the order passed by a Division Bench of the Patna High Court giving certain directions in a Public Interest Litigation filed by the respondent no.1. The prayer in the writ petition was essentially to direct the officials "to stop criminal events against the shopkeepers, dealers, artisans and industrial and industrial units and labourers and industrial units and also to stop their exploitation by the officers and police personnel."

3. The basic grievance was that officials in the police department were continued at one particular station for long period which is undesirable. The High Court disposed of the writ petition inter-alia with the following directions and observations:

(a) Let the Director General Police make out a list of officers from the station House Officer up to the Additional Director General of Police, of those who have remained in their station for more than four years. This dossier is to be supported with information from service record as to which officer throughout their career has remained at which station and for how long.

Officers who have remained at one station for over four years must see a posting out within six weeks from today. These would be officers below the rank of Inspector General of Police.

Staff below the SHOs who have remained at a particular station beyond three years will be identified by the District heads of police concerned and their movement will be undertaken by the Director General of Police.

It must be mentioned that the period of four years is set because in the normal course of government service, transfers and postings are made for officers if they have been at a particular posting for more than three years.

This order obviously does not preclude the Director General of Police from making any transfers should an officer have been at a posting for a lesser period, which is within normal administrative powers.

(b) On the monitoring of crime which the law obliges the state to register the court suggests the following measure:- The State of Bihar will request the National Informatics Centre, Government of India, State unit, to make out a blue print for monitoring the recording of a First Information Report, whether it is registered as an FIR or an entry in the General Diary. Every such record in continuation of the orders of the court dated 5 August, 2003 will be transmitted by the police stations concerned to the district police officer, whether the Superintendent of Police or the Senior Superintendent of Police. This will create a data-base at the district police headquarters. A summary of the FIR or the General Diary containing the offences and the person's name will be transmitted to the District Judgeships (District and Sessions Judge). A periodical report, as the police regulations so require, will also be given on the progress and action taken on a reported crime, whether it has culminated in a final report to be filed or a charge sheet to be filed before the Magistrate concerned.

If common name is occurring of an accused in more than one district, this information will be shared between the police officers who are heads of the districts concerned and intimated to the police headquarters and in terms of the order dated August 5, 2003, as also to the district judgeship.

The National Informatics Centre (NIC) will also draw up a plan (reference orders of the Court dated August 5 and this order) how an FIR may be recorded by computer by the SP/SSP/CJM on the failure of the police station to record it, and to create a data base on crime and criminals in the State.

Report to be submitted by the NIC to the Director General of Police for due action on it by the State Government, and the High Court to be informed on the report and progress on it."

4. Learned counsel for the appellants submitted that the directions are contrary to the statutory prescriptions i.e Rule 778 (vii) of the Bihar Police Manual. The averments in the writ petition were extremely vague. Not even one instance was given to substantiate the prayer to direct officials to stop "criminal events" and "exploitations". The High Court instead of dismissing the frivolous writ petition has given directions touching service conditions of large number of officials who were not even parties not even in representative capacity.

During the course of hearing, learned counsel for the respondent-State brought to our notice the Bihar Police Act, 2007. It appears that the Bihar Police Act, 2007 has been enacted to give effect to the directions of this Court in Prakash Singh and Ors. V. Union of India and Ors. (2006 (8) SCC 1). Several provisions of the Act need to be noted. They read as follows:

"Chapter III Superintendence and Administration of Police