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**(1997) 03 PAT CK 0032**  
**In the Patna High Court**  
**Case No : C.W.J.C. No. 1126 of 1996**

Basant Kumar Chaudhary

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

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**Date of Decision :** 19-03-1997

**Acts Referred:**

**Citation :** (1997) 2 BLJR 1416 : (1997) 1 PLJR 784

**Hon'ble Judges :** D.P. Wadhwa, C.J;S.J. Mukhopadhyaya, J

**Bench :** Division Bench

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## Judgement

D.P. Wadhwa, C.J. and S.J. Mukhopadhyaya, J.—This writ application as a public interest litigation has been filed by an Advocate of this Court seeking writ/order/direction to the respondents to provide proper accommodation in police lock-ups in hundreds of police stations in the State of Bihar. He also seeks writ/order/direction for providing proper diet money for the prisoners in custody of the police.

2. This petition was filed in January last year. At that time we were told that Re. 1/- per diet had been sanctioned for an accused in police lock-up and that two diets were provided in a day. Re. 1/- per diet these days is just a pittance and during the pendency of this writ application a statement was made that rate per diet has been increased to Rs. 6/- and that necessary funds were kept at the disposal of the Superintendent of Police in each district of the purpose. Nothing further need be said on this aspect of the matter.

3. As regards provisions of lock-ups in Police Stations, the petitioner complained that there were no lock-ups in many Police Stations. As a matter of fact the Police Manual required that there should be separate lock-ups for women and men. He said that a practice had developed that persons in police custody are being tied to trees or cots under an open sky and these persons were subjected to vagaries of weather. Admittedly such a treatment meted out to persons in police custody is inhuman and is violative of the fundamental rights of the citizens.

4. It was submitted by the respondents that instructions had been issued that in newly constructed Police Stations where there were no lock-ups, the arrested persons should be confined in the lock-ups of the nearest Sub-divisional Police Stations. Mr. Kishore, who appeared for the respondents, however, expressed ignorance if these instructions were being followed in practice or not. We repeatedly gave opportunities to the Director General of Police and the Police Commissioner to come forward with the statement as to when all the Police Stations in the State of Bihar shall be equipped with proper lock-ups separately for women and men. Some affidavits giving vague statements were filed and we expressed our dissatisfaction. Ultimately we directed the respondents to file affidavit giving proper time schedule as to when all the Police Stations shall have proper lock-ups. An affidavit was filed by Mr. D.P. Maheshwari, Commissioner-cum-Secretary, Department of Home, Government of Bihar, Patna. Some Police Stations have been opened in rented accommodation. Mr. Maheshwari has stated as under:

"That the State Government proposes to complete the construction work of separate police lock-ups for male and female in each police lock ups for male and female in each police station in accordance with the provisions of Rule 239 and 239-A of the Bihar Police Manual in the next five financial years."

That is all what the respondents have to say. Perhaps, violation of instructions contained in the Police Manual have no meaning for the respondents. There could not be any denial that the persons in police lock-ups are being tied to cots and nearby trees to secure them from running away. The casual approach with which the aforesaid affidavit has been filed does not show that any responsible or serious thought has been given to the problem which is too acute to be dealt with so casually by the respondents.

5. It has been admitted that there are 1156 Police Stations in Bihar including railway Police Stations. Out of these 851 Police Stations are in Government premises and the rest 305 are in private buildings. Out of 851 police stations which are functioning in Government premises 817 have pucca structures and the rest 34 are functioning under temporary structures. Out of 817 police stations functioning in pucca structures 801 have at least one police lock up and the rest 16 do not have any police lock-up. Only 358 police stations out of 801 have two separate lock-ups for male and female. A supplementary affidavit was filed by the respondents which was again sworn by Mr. D.P. Maheshwari on 3.2.1997 wherein it was stated that the Chief Engineer, Bihar Police Building Construction Corporation had been requested to prepare estimate for construction of separate police lock-up for male and female in the police stations functioning in Government buildings and where such facilities were not available and the Chief Engineer was also to prepare estimate for construction of pucca building for those police stations which were functioning in temporary structures in Government premises. It was stated that the Bihar Police Building Construction Corporation was likely to submit the estimate by 10th February,

1997 and after the receipt of the estimate thereof steps would be taken for administrative approval for construction so that construction work might start without any further delay, it was further stated that where the police stations were functioning in rental houses and separate lock-up facility for male and female were not available, Superintendents of Police had been requested to hire separate building where these facilities could also be provided. Lastly it was stated that the officer-in-charge of those police stations where either lock-up facilities were not available or separate lock-up facilities for male and female were not available had been directed by Director General of Police, Bihar, to send the accused to nearby police stations where such facilities are available.

6. On our persistent that we would like to have proper time schedule when all the police stations shall have separate lock-ups for male and female prisoners the affidavit of Mr. Maheshwari was filed on 3.3.1997 wherein it was stated that five financial years were required for the purpose. We do not think that the respondents are at all serious about duties under the Constitution or under the law. There is utter failure on their part to comply with the provisions of the Bihar Police Manual and to safeguard the fundamental rights of the citizens even though they may be prisoners and in police custody. The respondents have not cared to give any details specially as to when and how they shall have proper police lock-ups in all the police stations. Five years time stated by Mr. Maheshwari does not appear to have any basis.

7. We would, therefore, direct the respondents that within two years period of time all the police stations in the State of Bihar whether functioning in Government accommodation or not should have proper police lock-ups separately for both male and female prisoners. Since in spite of the pendency of this petition for over a year the respondents have not shown any serious concern we will keep this matter pending and shall monitor the construction of police lock-ups in terms of this order. A direction is issued to the Commissioner-cum-Secretary, Department of Home, Government of Bihar, to file an affidavit within one month from today names of all the police stations whether functioning in Government buildings or in rental accommodation which do not have police lock-ups and also those where there are no separate lock-ups for male and female prisoners. Within three months from today a further affidavit shall also be filed by the Commissioner-cum-Secretary as to in which police stations work of construction of lock ups as aforesaid had been taken up. It must be noticed that work of construction of police lock-ups should be spread over the period of two years in such a way that it is complete within the specified time. Let there be no default.

8. Let it be listed after one month.