

(2004) 02 PAT CK 0031
In the Patna High Court
Case No : CWJC No. 1311 of 2003

Bihar Vyavsayik Sangharsh Morcha and Another	APPELLANT
Vs	
State of Bihar and Others	RESPONDENT

Date of Decision : 11-02-2004

Acts Referred:

Constitution of India, 1950 — Article 19, 20

Citation : (2004) 1 BLJR 695

Hon'ble Judges : Ravi S. Dhavan, C.J.; Navin Sinha, J

Bench : Division Bench

Advocate : None, for the Appellant; S.K. Ghose, A.A.G. 2 Assisted by Nirmal Kr. Sinha, for the Respondent

Judgement

R.S. Dhavan, C.J. and Navin Sinha, J.—This matter was filed as a Public Interest Litigation. The issues as were raised in the petition are reproduced :

"(i) Whether the inaction of Respondents are violative of fundamental rights guaranteed under Articles 19 and 20 of the Constitution of India or not in not providing healthy atmosphere for the development of trade and business in the State of Bihar?

(ii) Whether the inaction of Respondents in not providing safety for the life of the businessmen and their agents are unreasonable, unjust, arbitrary and mala fide or not?

(iii) Whether the Respondents are duty bound to provide safety and healthy atmosphere for the proper development of the State or not?

(iv) Whether the Respondents are duty bound to maintain law and order properly or not?"

2. This perhaps explains the excitement at the time when the petition was filed. The reliefs sought are :

"That the petition is directed for the issuance of writ, order or direction to stop

criminal events against the Shopkeepers, dealers, artisans and industrial and labourers and industrial units and also to stop their exploitation by the officers and police personnel."

3. The concern and excitement to bring in a petition like the present one was good at the time when it was brought. It seems that the petitioners' excitement has abated.

4. In so far as what goes on in Bihar it is not necessary for the Court to make any comment as between the time when this petition was filed and as of today if only the Hindi newspapers were to be read the barometer gives a clear indication on what exactly the law and order is about. There is never a dull day when it can be said that the newspapers are without news on violence. An excitement for some. A tragedy for those who suffer under it.

5. Only as a consequential measure when both the petitioners and the State Council on behalf of the respondents were serious, reforms could be and were suggested, the Court recorded the suggestions in its orders. This is sufficiently contained in the orders dated 18 July, 2003, 28 July, 2003, 5 August, 2003, 14 August, 2003, 18 September, 2003, 29 September, 2003, 21 November, 2003, and 18 December, 2003. These orders will form part of this order.

6. Today an affidavit has been filed that further transfers of police officers have been made. The Court on its own has no inquiry in respect of any particular transfer. Suffice it to say that if making transfers is a part of an administrative routine then that should have been so but was not and hence has to be kept up in regularity. It is the contention of the Additional Advocate General that the State administration has sufficiently engaged itself to carry out large scale transfers and that these have had an effect. The effect part, the Court feels, will be felt by the people.

7. Of late the Court did not have the benefit of presence of the Director General of Police to assure the Court that the common man has access to the police station when a crime is to be reported. It may be recalled that the first of the orders in this matter raised an issue whether an ordinary man can take his complaint to a police station and have it recorded under the law as a First Information Report and there is a ready response by a police station to accept the complaint and record it. The malaise was accepted by the previous Director General of Police that the police station does not so readily record a First Information Report in the normal course because if it were to do so as easily as they were reported it would reveal a spiralling crime-graph which the politics of government does not desire to accept. It would imply a State of violence. This access of the common man to the police station to report a crime has remained on paper and will continue to be debated as long as crimes do not lessen and peace, does not return. But, and this is a fundamental but, the report of a crime will have to be accepted for reporting.

8. This case cannot become a magnum opus for the Court as to suggest that the

High Court is running the administration. This is not so. The administration is the sole responsibility of the government and the people will judge the government day to day and it does not matter whose government it is.

9. Not to be unnoticed is the recent phenomenon where the younger generation reacted like a volcano when they were stopped from taking recourse to unfair means at an annual examination of Intermediate Board. Why should this generation react in such a way? Does this not reveal a symptom that this generation grew up or were brought up on a latitude that cheating in an examination makes sense? To stop these examinees from cheating appeared nonsense to them. Cheating your way out of an examination is big business. Most get away, some get caught. Moral degeneration of society affects law and order. Police alone, in its inaction, may not be solely responsible. It may be a case study for a contemporary sociologist.

10. This case as was brought served its purpose. And if there be another occasion, it will be another case when it conies.

11. Consigned.