

(2000) 12 PAT CK 0055
In the Patna High Court
Case No : C.W.J.C. No. 7437 of 1999

Prashant Kumar

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 14-12-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 3 PLJR 76

Hon'ble Judges : Ravi S. Dhavan, C.J.;Aftab Alam, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This is an unusual case of a Member of the Legislative Assembly, sitting in the House at the time when the petition was brought, coming to the High Court in its prerogative writ jurisdiction and seeking a writ of certiorari with a prayer that a certain contract, which had been granted by the State and/or a public corporation be quashed. The writ inevitably is sought against the State, the State of Bihar, and the public corporation, that is, the Bihar State Bridge Construction Corporation, Patna, Bihar.

2. The Court has reservations whether it can lend its writ jurisdiction so easily to Hon"ble elected members of the legislature to invoke extra ordinary remedies which public interest litigations happen to be. In other words, an affirmative action, by invoking the writ jurisdiction of the High Court under Article 226 of the Constitution of India to set aside or remedy State action. Plainly, if such writ petitions were encouraged then Members of the House of the Legislature would have best of two worlds. First, their rights and privileges to which they are entitled as elected representatives of the people and to question the government in its functions within the House and then in their position to come to the High Court and question a government action whenever a situation may be inconvenient to them and inquiries which the House may not permit. The High Court's writ jurisdiction is for the ordinary citizen to question State action or

inaction when fundamental rights may be violated or the law is in breach by the State. A public interest litigation is no different except affirmative action as a class action but for the same "violations and breaches.

3. The legislators place is in the House of Legislature as a parliamentarian. He may come to the High Court, but, as an ordinary man for protection of his fundamental rights, for which the High Court's doors are open.

4. In the circumstances it is opinion ,of the Court that this petition should be laid to rest.

5. Dismissed.