

(2001) 10 PAT CK 0059
In the Patna High Court
Case No : Cr. W.J.C. No. 406 of 2001 (DB)

Ravi Ranjan alias Ravi Ranjan Yadav

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 03-10-2001

Acts Referred:

Citation : (2001) 10 PAT CK 0059

Final Decision : Allowed

Judgement

1. On 19.3.2001, a report was submitted by the Superintendent of Police to initiate a proceeding against the Petitioner under Bihar Control of Crimes Act, 1981 as his activities were prejudicial to law and order. On the basis of the said report, the District Magistrate (Respondent No. 2) initiated a proceeding under the provisions of the Bihar Control of Crimes Act and directed for detention of the Petitioner vide order dated 22.3.2001 (Annexure-2). The order of detention was approved by the State Government on 30.3.2001 (Annexure 4). The Petitioner filed representation against the order of detention on 12.4.2001. The said representation was rejected on 10.5.2001. However, final order u/s 21 of the Act was passed on the same day i.e. 10.5.2001 (Annexure 7). Learned counsel for the Petitioner submitted that there was great delay in disposal of the representation.

2. Two counter affidavits have been filed, one on behalf of Respondent Nos. 1 and 2 and the other on behalf of District Magistrate (Respondent No. 3). In both the counter affidavits in fact similar stand has been taken. It has been stated that the representation was filed on 12.4.2001 which was received in the Department on 17.4.2001. Comment was asked for and thereafter representation was sent to the Advisory Board. The explanation that has been furnished in the counter affidavit is not at all acceptable. It is well known that the Government is competent to consider the representation and dispose of the same. The Government is not required to wait for the opinion of the Advisory Board on the representation. Even if the representation is rejected by the State

Government, the same may be referred to the Advisory Board. But the State Government cannot wait for the opinion of the Advisory Board for the purpose of disposal of the representation. In this regard reference may be made to a decision in the case of Mohinuddin alias Moin Master Vs. District Magistrate, Beed and Others,

3. Therefore, on consideration, we have no hesitation in saying that there was unexplained delay in disposal of the representation. Therefore, the order of detention, as contained in Annexure 2 and 7 cannot be held to be legal. Accordingly, the writ application is allowed and the order of detention is hereby quashed.