

(2002) 05 PAT CK 0107
In the Patna High Court
Case No : C.W.J.C. No. 3564 of 1999

Sachindanand Mishra and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 20-05-2002

Acts Referred:

Citation : (2002) 4 PLJR 701

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kr. Singh, J

Bench : Division Bench

Advocate : Umesh Pd. Singh and Amod Kumar, for the Appellant; S. Alamdar Hussain, Shashi Bhushan Kumar for State and G.K. Agrawal, for the Respondent

Judgement

Ravi S. Dhavan, C.J.—Taking writ petition on its face value filed as a Public Interest Litigation, the only thing on record is a statement reported to have been made on behalf of Hon'ble Chief Minister that it was proposed that a certain land possessed at present by a police station would be transferred to Patna Saheb otherwise also known as Harmandir, the birth place of Guru Govind Singh.

2. The statement, apparently, was published in the press on 4 April, 1999 and became an excuse for the present writ petition. The newspaper reports for whatever they are worth, became the basis of submissions made in the writ petition. Thus, it is clear that what is stated in the writ petition are reports published in the newspapers. The contention on the petition, made rather strenuously, is that Respondent No. 2 Smt. Rabri Devi wife of Shri Laloo Prasad Yadav, Chief Minister, Bihar, 1 Anne Marg, Town and District Patna has not filed a counter affidavit and this be taken as a circumstance against her and the Court notice this for due consideration. A half hearted suggestion was made that the Chief Minister be summoned and an adverse presumption be drawn, as she has not filed a counter affidavit and what she has stated to the media be attributed as her statement. The Court cannot summon the Chief Minister at the Bar of this Court, nor any Hon'ble Minister, unless any one of them has interfered with pending proceedings which are not the circumstances in this case. Nor is there

any proceeding for perjury arising out of a case at the High Court. At best or at its worst whatever may have been reported in the newspaper may at best be attributed that such a statement was published. The presumption cannot go beyond this. Clearly, on record there is no executive order that the Chief Minister had directed the transfer of land from the Police Station i.e. Chowk Thana to the management committee of Patna Saheb. Thus, this aspect need not be dwelt upon more than noticed by the Court. The Chief Minister is answerable to the legislature first. The Petitioners may, if their politics advises them raise the issue in the legislature.

3. In the counter affidavit it is contended that an exercise was under contemplation and that though the matter in context, may be under consideration yet no decision has been taken. Between these two circumstances of a declaration made by the Chief Minister and the aspect being considered within the Government and no executive order having been taken out as of date, the news report excite the situation. There is no order on which the High Court may certify an action as correct or incorrect or legal or illegal.

4. Too much stress has been laid that a mandir and a mazar is being transferred. This is not so. Of any mandir or mazar which is being pointed out, the State itself acknowledges, it is within the precincts of a police station. This Court is not giving any finding on this. In India it is not unknown that every police station, or a regimental barrack of the armed forces, will temporarily arrange a camp temple or a mazar or a Granth. Not to be ignored is the submission of the Managing Committee of Patna Saheb in its reply, that in case the transfer of land is made they would respect all denominations and religions.

5. If the Court dwells on this subject beyond what is recorded it would indeed be joining the media to further excite an otherwise subsided situation. The petition was only based on the newspaper reports. Even the Petitioner accepts that there is no order to chase the statement of the Chief Minister.