

(2008) 07 PAT CK 0082
In the Patna High Court
Case No : CWJC No. 2396 of 2008

Sanjay Kumar Pathak

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 10-07-2008

Acts Referred:

Citation : (2009) 2 PLJR 883

Hon'ble Judges : Ajay Kr. Tripathi, J

Bench : Single Bench

Judgement

Ajay Kr. Tripathi, J.—Some things do not change at the bureaucratic level even though certain issues are decided by the High Court after wasting much of public time in deliberations. The present case cannot be a better example of this. Non-issuance of arms licences for years together has been cause for many a litigations before this High Court. Looking at the number of cases of similar nature being filed, one writ application namely, CWJC No. 13496 of 2004 was taken up by a Division Bench as a PIL. Various orders came to be passed at various stages. Even when proceeding in the abovementioned writ application was going on, the Court had to take a very harsh approach due to lack of response at the level of the District Magistrates and Superintendents of Police. In this regard a paragraph of the order dated 7.9.2005 is hereby reproduced:-

"It appears that the District Magistrates and the Superintendents of Police are under the impression that they are above the law and on the pretext of the ensuing election to be held in this State, they can save their skin for disobedience of the Court's order. So long as the rule of law has to prevail in this country everybody is subordinate to rule of law and has to carry out the directions of the Court. After going through the materials, we are of the view that all the District Magistrates in the State of Bihar have violated the orders of this Court, and accordingly a fit case for initiation of proceedings under the Contempt of Courts Act is made out against each of them."

2. The matter thereafter was disposed of with categorical directions to the

District Magistrates as well as the Superintendents of Police in the State of Bihar to do the needful in such cases but it seems after the matter was disposed of, the District authorities have gone back in hibernation.

3. In the present writ application the audacity of the respondents are obvious. The petitioner way back on 3,6.2005 wrote a letter to the District Magistrate of Euxar annexing a copy of the order passed by this Court in the case of Dwivedi Surendra, Advocate vs. The State of Bihar and Others. The Court is burdened with the same responsibility again in the year 2008 because no decision has been taken in the matter. This writ application has been filed in January, 2008 and there is no counter affidavit on the issue.

4. In the normal course of things this fact is enough to initiate a proceeding of contempt against the concerned respondents because violation of Division Bench directives per se make out a case for the same. But this Court at this stage would like to refer this matter to the Principal Home Commissioner, Government of Bihar to examine as to who and why the violation of the Court's directives is being indulged into, when he himself at one point of time faced contempt in the abovementioned writ application. If it is the feeling of the respondent authorities that judicial orders are only passed for the purpose of records then they are highly mistaken.

5. The writ application is disposed of with a direction upon the District Magistrate that a decision be taken in the matter within four weeks from the date of communication/production of a copy of this order.

6. The Principal Home Commissioner, Government of Bihar is directed to issue a notice to the District Magistrate, Buxar, seek explanation from him and communicate his findings in this regard to this Court in a sealed envelop within three months time from today. The endeavour of the Principal Home Commissioner shall be to fix responsibility upon the people including the District Magistrate as to why judicial orders are not being followed and implemented. The writ application is disposed of with the above directions.