

Peoples' Union For Democratic Rights vs State Of Bihar & Ors on 19 December, 1986

Equivalent citations: 1987 AIR 355, 1987 SCR (1) 631, AIR 1987 SUPREME COURT 355, 1987 (1) SCC 265, 1987 CALCRILR 21, 1987 CURCRIJ 89, 1987 SCC(CRI) 58, 1987 (4.1) IJR (SC) 42, 1987 JT 18, 1987 BLJR 97, (1987) SC CR R 162, (1987) 1 SCJ 351, (1986) 4 SUPREME 506, (1987) BLJ 200

Author: Misra Rangnath

Bench: Misra Rangnath, M.M. Dutt

PETITIONER:

PEOPLES' UNION FOR DEMOCRATIC RIGHTS

Vs.

RESPONDENT:

STATE OF BIHAR & ORS.

DATE OF JUDGMENT 19/12/1986

BENCH:

MISRA RANGNATH

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MISRA RANGNATH

DUTT, M.M. (J)

CITATION:

1987 AIR 355	1987 SCR (1) 631
1987 SCC (1) 265	JT 1987 (1) 18
1986 SCALE (2) 1093	

ACT:

Constitution of India, 1950, Art. 32-- Police firing--Some persons killed and several others injured--Payment of compensation--Necessity for.

Public Interest Litigation--Police firing--Some persons dying and several others injured--Payment of compensation--Necessity of.

HEADNOTE:

The petitioner-an organisation, said to be committed to the upholding of fundamental rights of citizens, filed an application under Article 32 of the Constitution alleging that there was a dispute relating to possession of 26 deci-

mals of low lying land at Arwal between members of a rich Rajak family on one side and members of nine poor families on the other; and that on April 19, 1986, the members of one community mostly belonging to the backward classes assembled in the compound of Gandhi library at Arwal for holding a peaceful meeting. At that time, the Superintendent of Police reached the spot with police force, surrounded the gathering and without any warning or provocation opened fire, as a result of which several people were injured and at least 21 persons including children died. The police, it was also alleged, started a false case implicating several innocent people to cover up the aforesaid atrocities.

The petitioner in the writ petition prayed: (i) Full and proper compensation should be awarded to the victims-relations of the dead and to those injured by the police firing; (ii) A direction be given for withdrawal of the police case; (iii) Direction for settlement of the land in dispute with the nine poor families; and (iv) transfer of the writ petition pending in the Patna High Court to this Court for hearing.

During the pendency of the Writ Petition, the State Government held a judicial inquiry into the aforesaid incident by a Member of the Board of Revenue, and, awarded compensation to the heirs and relations of a few of the dead people to the tune of Rs. 10,000 each.

Disposing of the writ petition, this Court,

HELD: I. It would be appropriate that the matter is examined by

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the High Court. It would be convenient to the parties to produce material before the High Court on account of proximity; the High Court will be in a position to call for documents and if necessary, affidavits of parties concerned as and when necessary while dealing with the matter. Without notice and without affording a reasonable opportunity to the parties in the writ petition before the High Court an order of transfer may not be appropriate. It would not be proper therefore to have the writ petition in the High Court transferred to this Court. However, the petitioner is at liberty to get itself impleaded before the High Court in the pending writ petition or by filing an independent application. [634F-H]

2. It is a normal feature that when such unfortunate consequences emerge in police firing, the State comes forward to give compensation. No justification has been indicated as to why the said compensation has not been given in every case of death or injury. Ordinarily in the case of death compensation of Rs.20,000 is paid and there is no reason as to why the quantum of compensation should be limited to Rs.10,000. However, in the case of death the liability of the wrong doer is not absolved when compensation of Rs.20,000 is paid. [635B-D]

3.(a) Without prejudice to any just claim for compensa-

tion that may be advanced by the relations of the victims who have died or by the injured persons themselves, for every case of death compensation of Rs.20,000 and for every injured person compensation of Rs.5,000 shall be paid. Where some compensation has already been paid, the same may be adjusted when the amount now directed is being paid. [635D-F]

(b) In case the petitioner presses for disclosure of the report submitted by the Member, Board of Revenue, the High Court may examine the question as to whether the report will be made public and in the event of privilege being claimed the question of privilege will also be examined by the High Court. [635F-G]

(c) The investigation of the pending police case shall be completed within three months. In case charge sheet is submitted, it would be open to the petitioner or any other aggrieved party to challenge the maintainability of the charges in accordance with law. [636B]

JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition (CRL.) No. 369 of 1986. Under Article 32 of the Constitution of India.

Govind Mukhoty, Ms. Nandita Haksar and L.R. Singh for the Petitioners.

D. Goburdhan for the Respondents.

The Judgment of the Court was delivered by RANGANATH MISRA, J. Peoples' Union for Democratic Rights, an organisation said to be committed to the uphold- ing. of fundamental rights of citizens has filed this appli- cation under Article 32 of the Constitution. It is alleged that on 19th April, 1986, 600 to 700 poor peasants and landless people mostly belonging to the backward classes had collected for holding a peaceful meeting within the compound of Gandhi Library in Arwal, a place within the District of Gaya in the State of Bihar. Without any previous warning by the police or any provocation on the part of the people who had so collected, the Superintendent of Police, Respondent No. 3 herein, reached the spot with police force, surrounded the gathering and opened fire as a result which several people were injured and at least 21 persons including chil- dren died. The petitioner alleged that separate unofficial inquiries have been held into the atrocity and the reports indicated that the number of deaths was much more than 21 and there was no justification for the firing. It appears that there was a dispute relating to possession of 26 deci- mals of low lying land adjacent to the canal at Arwal and to such dispute members of a rich Rajak family on one side and members of nine poor families on the other were parties. Even though several people died and many more were injured by the ruthless and unwarranted firing resorted to by the police, to give a cover to the atrocities, the police start- ed a false case being Arwal P.S. Case No. 59 of 1986 and therein implicated several innocent people including even some of the people who had been killed in the firing. Three specific prayers were made in the writ petition, namely:

(1) To issue an appropriate writ or make an order or direction in the matter of payment of full and proper compensation to the vic-

tims--relations of the dead and to the people who were injured by police firing;

(2) For a direction to withdraw the police case referred to above; and to settle the land in dispute with the nine poor families.

During the hearing of the matter, an additional relief was pressed, namely, this Court should give a direction for instituting a judicial inquiry into the alleged atrocity. It may be pointed out that during the pendency of this writ application the State Government in response to the growing demand for a judicial inquiry into the matter directed an inquiry therein by Shri Vinod Kumar, Member, Board of Revenue, Bihar. The said inquiry has been completed and the report has already been furnished to the Government. On the orders of the Court, the report has been produced before this Court with a claim of privilege against disclosure thereof.

The incident drew a lot of publicity and attention both within the State as also outside. Coming to know about it, Shri B.D. Sharma, Assistant Commissioner for Scheduled Castes and Scheduled Tribes visited the locality and made a report. At the instance of the petitioner, that document was summoned and has been produced. In respect thereof the Union Government has also claimed privilege.

In the affidavits in opposition filed on behalf of the respondents the factual assertions raised in the writ petition have been disputed. It has also been brought to our notice that a writ petition has been filed before the Patna High Court prior to filing of this application under Article 32 before this Court and the writ petition in the High Court is still pending. Once this fact was brought to our notice, Mr. Mukhoty for the petitioners submitted that we should direct transfer of the writ petition pending in the High Court to this Court so that both the matters can be heard together. We are of the view that it would be appropriate that the matter is examined by the High Court. It would be convenient to the parties to produce material before the High Court on account of proximity; the High Court will be in a position to call for documents and, if necessary, affidavits of parties concerned as and when necessary while dealing with the matter; and without notice and without affording a reasonable opportunity to the parties in the writ petition before the High Court an order of transfer may not be appropriate. In these circumstances, we have not thought it proper to have the writ petition in the High Court transferred to this Court. On the other hand, we have considered it expedient and proper in the interest of justice to dispose of some aspects of the matter now and leave it open to the petitioner to canvass the other aspects by getting itself impleaded before the High Court in the pending writ petition or by the filing of an independent application.

There has been no dispute that as a result of the police firing 21 people died and several others were injured. The heirs and relations of a few of the dead people had been compensated by the State to the tune of Rupees ten thousand as found from the record. No justification has been indicated as to why the said compensation has not been given in every case of death or injury. It is a normal feature of which judicial notice can be taken that when such unfortunate consequences emerge even in

police firing, the State comes forward to give compensation. Mr. Jaya Narayan, for the State candidly stated before us that it is not the intention of the State to deprive the relatives of some of the victims who succumbed to the injuries sustained by police firing from benefits of compensation. Ordinarily in the case of death compensation of Rupees twenty thousand is paid and we see no reason as to why the quantum of compensation should be limited to rupees ten thousand. We may not be taken-to suggest that in the case of death the liability of the wrong doer is absolved when compensation of Rupees twenty thousand is paid. But as a working principle and for convenience and with a view to rehabilitating the dependants of the deceased such compensation is being paid. We direct that:

(1) Without prejudice to any just claim for compensation that may be advanced by the relations of the victims who have died or by the injured persons themselves, for every case of death compensation of Rupees twenty thou-

sand and for every injured person compensation of Rupees five thousand shall be paid. Where some compensation has already been paid, the same may be adjusted when the amount now directed is being paid. These payments be made within two months hence.

(2) In case the petitioner gets implead-

ed in the pending writ petition before the High Court or filed a separate writ petition and presses for disclosure of the Report of Mr. Kumar, the High Court may examine the question as to whether the report will be made public and in the event of privilege being claimed, the question of privilege will also be examined by the High Court.

(3) We have read the report furnished by the Assistant Commissioner of Scheduled Castes and Scheduled Tribes and since the report is not relevant to the point in issue, it is not necessary to ask the High Court to call for the Report. We direct that the report to be returned to the appropriate Ministry from where it has been brought.

(4) The investigation of the pending police case shall be completed within three months from now. In case chargesheet is submitted, it would be open to the petitioner or any other aggrieved party to challenge the maintainability of the charges in accordance with law.

The writ petition is disposed of with the aforesaid directions. The parties shall bear their own costs.

M.L.A.
posed of.

Petition dis-