
(2022) 01 PAT CK 0018

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 21327 Of 2021

Md. Jamal Mansuri

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: Jan. 6, 2022

Acts Referred:

- Constitution Of India, 1950 - Article 14
- Bihar Chowkidr Cadre Rules, 2006 - Rule 5

Hon'ble Judges: Sanjay Karol, CJ; S. Kumar, J

Bench: Division Bench

Advocate: Abhinav Srivastava, Md. Nadim Seraj

Final Decision: Disposed Of

Judgement

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

âœ(i) Issuance of a declaration holding that the provisions contained under Rule -2 of the Bihar Chowkidar Cadre (Amendment) Rules, 2019, by

which sub-rules (8) & (9) have been inserted under Rule-5 of the Bihar Chowkidr Cadre Rules, 2006 is ultra vires the Constitution of India the same

being in blatant disregard and violation of article 14 of the Constitution of India;

(ii) Issuance of a declaration holding that in terms of the provisions contained under Bihar Chowkidar Cadre Rules, 2006, the District Magistrate of the

concerned district continues to remain the disciplinary authority of Chowkidars appointed under the said 2006 Rules and accordingly, the operational

control as well as disciplinary control over persons working in the capacity of Chowkidars in different districts remain vested with the District

Magistrate of the concerned district;

(iii) Issuance of an ad interim direction upon the concerned authorities under the Home (Police) Department of the State Government to keep the impugned notification dated 01/01/2019 in abeyance during the pendency of the present case before this Honâ€™ble Court;

(iv) Any other relief/reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case.â€™

After the matter was heard for some time, learned counsel for the petitioner, under instructions, states that petitioner shall be content if a direction is

issued to the authority concerned i.e. (Respondent No. 5, Principal Secretary Home (Police) Department, Bihar, Patna) to consider and decide the

representation which the petitioner shall be filing within a period of four weeks from today for redressal of the grievance(s).

Learned counsel for the respondents states that if such a representation is filed by the petitioner, the authority concerned shall consider and dispose it

of expeditiously and preferably within a period of four months from the date of its filing along with a copy of this order.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioner shall approach the authority concerned within a period of four weeks from today by filing a representation for redressal of the grievance(s);

(b) The authority concerned shall consider and dispose it of expeditiously by a reasoned and speaking order preferably within a period of four months from the date of its filing along with a copy of this order;

(c) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(d) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(e) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(f) Liberty reserved to the petitioner to challenge the order before the appropriate forum, should the need so arises subsequently.

(g) We have not expressed any opinion on merits. All issues are left open;

(h) The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually

agree to meet in person i.e. physical mode;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.