

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.390 of 2020

Arising Out of PS. Case No.- Year-0 Thana- District- Patna

Marium Khatoon

... .. Petitioner/s

Versus

The State of Bihar through the Principal Secretary Home (Police), Patna,
Bihar & Ors.

... .. Respondent/s

Appearance :

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| For the Petitioner/s | : | Mr. Upendra Kumar Singh, Advocate |
| | | Mr. Ashish Giri, Amicus Curiae |
| For the Respondent/s | : | Mr. P.K. Verma, AAG 3 |
| | | Dr. K.N. Singh, A.S.G |
| | | Mr. Kumar Priyaranjan, C.G.C. |

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

12 26-04-2021 Heard the parties through video conferencing.

Vide order dated 07.04.2021, this Court has constituted a Three Men Committee of Advocates to be informed this Court in what manner Bangladeshi migrants are being kept in Nari Niketan.

In compliance of the aforesaid order, a report has been submitted by the said Committee mentioning therein that the migrants have not raised any grievance of bad treatment with them in Nari Niketan. In paragraph 6 of the report, it has been stated that (i) the immigrants are not facing any type of sexual or mental harassment at the shelter home (ii) the immigrants are being provided with basic right to food, cloth and shelter (iii) proper medical assistance is being provided (iv) there is facility for in-house tutor for classes 1 to 10 (v) None of the immigrants are



being subjected to torture, slavery or bonded labour and (vi) with the exception of Mariam Khatoon who wants to be rehabilitated in India, rest wants to return to their homeland after proper assistance and approval of government.

In a nut-shell, the migrants are being kept in a proper manner as they have not made any complaint to Member of the Committee. The report bears the signature of all the three Members of the Committee, so we accept the report of the Committee.

This Court had given direction to the State to inform this Court about the status of Detention Centre, but the State has not come out with a proper statement with regard to creation of the Detention Centre, as they have stated that in jail premises itself the migrants have been kept separately, so that should be treated to be Detention Centre and also an effort is being made to create Detention Centre inside Beur Jail.

Detention Centre cannot be created inside the jail premises, rather it should be created in terms of the instruction given by the Central Government giving detail the manner the State has to create Detention Centre, so it is primary duty to create Detention Centre with that terms.

In such view of the matter, we are not satisfied with the counter affidavit filed by the State.



Let the State file a proper affidavit with regard to creation of Detention Centre.

So far the Union of India, this Court had asked about further development in connection with the response from the Embassy of Bangladesh.

It has been informed that no further development has taken place.

It has been informed by counsel for the Union of India that the official of Home Ministry is not responsive to the query of the Court, as they have stated that as they were not given any direction to file a counter affidavit that's why they have not given any reply to query of the counsel for the Union of India.

It is very unfortunate that the Union of India comprises all the Departments, including Ministry of External affairs and Ministry of Home affairs. It is the duty of the Home Ministry to give a proper response to the query made by this Court with respect to the fact how the similarly situated foreign national are being treated and handled by the Home Ministry. In failure to give response to counsel will be treated to be violation of the order of this Court. The Home Ministry of Union of India is directed to file affidavit.

At this stage, this Court is not initiating a contempt proceeding against those official who are not responsive to the



query of the Court. It is also made clear that the Court may initiate a contempt proceeding against those who would be found in not cooperating the court proceeding.

Let this order be communicated to the Home Secretary, Government of India to ensure that the department must be responsive to the query made by this Court and the Home Ministry should give instruction in a proper manner so that the counsel would be able to file a proper affidavit.

As prayed for, let this case be listed after four weeks.

As it is a very serious matter that three Bangladeshi girls entered into India and they are being kept in Nari Niketan, not in Detention Centre. As the Government of Bihar has failed to create Detention Centre. A detailed affidavit should be filed by the Union of India especially by the State of Bihar with respect to creation of Detention Centre for foreign national.

(Shivaji Pandey, J)

(Partha Sarthy, J)

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