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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

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Upendra Kumar Singh, Advocate Mr. Ashish Giri, Amicus Curiae
For the Respondent/s	:	Mr. P.K. Verma, A.A.G. 3 Mr. Sanjay Kumar Ghosarvey, AC to AAG 3 Mr. Dr. K.N. Singh, ASG Mr. Kumar Priya Ranjan, CGC Mr. Abhijit Gautam, JC to ASG

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

16 18-08-2021 We have perused the affidavit dated 16.08.2021 filed

by Respondent No.1. The Government commits itself for setting

up of detention centres on the lines of Chapter 2.6 of Model

Detention Centre/Holding Centres/Camp Manual, 2019.

The relevant portion of the affidavit (para 6 and 7)

is extracted hereunder:

“6. That it is further submitted that pursuant to
the order dated 30.07.2021 passed by this Hon'ble court,
matter with respect to the establishment of detention centre is



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examined in the light of the instructions issued time to time by the Ministry of Home Affairs, Govt. of India and it is decided to establish detention/holding centre/camp outside the jail premises for restricting the movement of illegal foreign national.

7. That consequently, aforesaid proposal is sent in file for approval of the State Government. The State Government has approved the aforesaid proposal. Accordingly, the Home Department (Special Branch), Bihar, Patna vide letter no. 358 dated 12.08.2021 requested Inspector General, Prison and correction services, Bihar, Patna to establish the Detention Centre/Holding Centre/Camp outside the jail premises for restricting the movement of illegal foreign nationals awaiting for their deportation even after completion of sentence due to non confirmation of their nationality. Inspectorate of Prisons and Correctional Services, Bihar, Patna vide letter no. 7117 dated 13.08.2021 ordered and intimated for establishment of detention centre within the campus of Bihar Institute of Correctional Administration, Hajipur as temporary detention centre earmarked under Chapter 2.6 of Model Detention Centre/Holding Centre/Camp Manual, 2019 contained in Annexure-C of the 2nd supplementary counter affidavit filed by the respondent no.1.”

Belated though, the process for setting up of the detention centres stands initiated, but however, the affidavit is vague insofar as- (a) the time frame for setting up of detention centre is concerned; and (b) whether the temporary detention centre is equipped with the requisite minimum infrastructure stipulated under Chapter-4 of the Rules referred to supra.

Let a fresh affidavit be filed clarifying such a position.

Let the State Government also apprise the Court of the steps taken for sensitizing the general populace of Bihar,



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making them aware of the mechanism in place for identification and deportation of the persons suspected to be illegal migrant, more so from Bangladesh and the fact that such persons are required to be immediately deported for their entry in India is illegal under the Foreigners Act, 1946 and that their custody is required to be immediately handed over to the Nodal Officer, Government of West Bengal, in terms of communication dated 1st of February, 2013, issued by the Director, Ministry of Foreign Affairs, Government of India.

In fact, we are of the considered view that such process of sensitizing people, more so along the border areas, must be carried vigorously both through electronic and print media as also associating the public spirited persons/N.G.O's for deportation of illegal migrants is of paramount importance and in national interest.

The Foreigners Act, 1946 imposes an obligation upon master of the vessel as also the passengers travelling therein and the housekeepers/lodgers permitting accommodation to such foreigners whose entry in India is contrary to law.

Affidavit to such an effect be also filed.

Also it be made known as to whether the Government has worked out any mechanism for furnishing



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information on-line i.e. through digital mode to the concerned Agency; as to whether the record sought to be maintained under Sections 6 and 7 of the Foreigners Act, 1946 is digitalized and as to whether there is any mechanism in place for facilitating furnishing such information on-line.

Also whether Authorized Officers under the Foreigners Act, 1946 Act are verifying the record and monitoring the movement of any unauthorized persons or not.

Affidavit of compliance be filed by Respondent no.1 within two weeks.

List on 04.09.2021.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

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