

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 2482 of 2026

1. Parmanand Singh, aged about 55 years, s/o Sukhdeo Singh, resident of Qtr. No. 94, Block No. 12, Central Colony, P.O.+P.S.-Chandrapura, Nawadih, Dist.-Bokaro
2. Prakash Kumar Singh @ Prakash Kumar, aged about 41 years, s/o Shyam Narayan Singh, r/o MQ/313, Subhash Nagar, P.O.-Amlo, P.S.-Bermo, Dist.-Bokaro

.... Petitioners

Versus

The State of Jharkhand

.... Opp. Party

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

.....

For the Petitioners : Mr. Sanjay Kumar Thakur, Advocate
For the State : Mr. Shiv Shankar Kumar, Addl. P.P.

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By the Court:-

1. Heard the parties.
2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of B.N.S.S., 2023 with the prayer to quash the entire criminal proceeding including the charge sheet no. 01 of 2024 and order dated 03.07.2024 by which cognizance of the offences punishable under Sections 171F, 171H and 188/34 of the Indian Penal Code has been taken by the learned S.D.J.M., Bermo at Tenughat, as well as the order dated 17.12.2025 by which a petition under Section 258 of Cr.P.C. filed by the petitioners has been dismissed by the learned S.D.J.M., Bermo at Tenughat; all in connection

with Bermo P.S. Case No. 60 of 2024, corresponding to G.R. No. 385 of 2024.

3. The brief fact of the case is that the petitioner no.1 is the principal of Saraswati Shishu Vidya Mandir and he organized a meeting in violation of the Model Code of Conduct for the 2024 Lok Sabha Election without obtaining permission from the competent authority in the school hall and the petitioner no.2 posted on his social media account about holding of a meeting on 14.04.2024 without obtaining permission.

4. On the basis of the written report submitted by the informant- Manoj Kumar Bediya who was Assistant Engineer-cum-Flying Squad Officer, police registered Bermo P.S. Case No. 60 of 2024 and took up investigation of the case. After completion of investigation police found the allegation against the petitioners to be true and submitted charge sheet and basing upon the same, the learned S.D.J.M., Bermo at Tenughat has taken cognizance of the offences as already indicated above and also rejected the petition for discharge of the petitioners.

5. It is submitted by the learned counsel for the petitioners by relying upon the judgment of this Court in the case of **Dr. Nishikant Dubey vs. The State of Jharkhand and allied cases** reported in **2024:JHHC:1622** that in that case, this Court relied upon the judgment of

Hon'ble Patna High Court **Dharmesh Prasad Verma vs. The State of Bihar** reported in (2016) SCC OnLine Pat 3622 wherein, it was held that it would not be within the domain of the police to register a case for an offence punishable under Section 188 of the Indian Penal Code and investigate the same after registration of an FIR for an offence punishable under Section 188 of the Indian Penal Code. It is next submitted by the learned counsel for the petitioners that since no complaint has been filed so cognizance ought not have been taken by the learned S.D.J.M., Bermo at Tenughat in respect of the offence punishable under Section 188 of the Indian Penal Code.

6. Learned counsel for the petitioners next relied upon the judgment of Hon'ble Patna High Court in the case of **Prakash Jha vs. The State of Bihar & Ors.** dated 31.07.2017 in Criminal Miscellaneous No. 43543 of 2010 and submits that therein also the Hon'ble Patna High Court had the occasion to consider the provisions of Sections 171F, 171H and 188/34 of the Indian Penal Code and finding that no offence punishable under the penal provisions of law was made out, quashed the entire criminal proceeding. It is further submitted by the learned counsel for the petitioners that even if the entire allegations made against the petitioners are considered to be true in their entirety, still, none of the offences in

respect of which cognizance has been taken by the learned S.D.J.M., Bermo at Tenughat is made out against the petitioners. Hence, it is submitted that the prayer as prayed for by the petitioners in this criminal miscellaneous petition be allowed.

7. Learned Addl. P.P. on the other hand vehemently opposes the prayer of the petitioners and submits that if the entire allegations made against the petitioners are considered to be true in their entirety, then all the offences in respect of which cognizance has been taken in the case, is in fact made out against the petitioners. Hence, it is submitted that this criminal miscellaneous petition being without any merit be dismissed.

8. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to refer to Section 188 of the Indian Penal Code which reads as under :-

188. Disobedience to order duly promulgated by public servant.—*Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one*

month or with fine which may extend to two hundred rupees, or with both: and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.—*It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.*

The essential ingredients of the offences punishable under Section 188 of the Indian Penal Code are as follows:-

- (i) There was promulgation of an order;
- (ii) Such promulgation was made by a public servant;
- (iii) Public servant was legally empowered to make the promulgation;
- (iv) Promulgation directed not to do certain things or to take certain orders in connection with certain property in his possession or management;
- (v) Accused knew of the promulgation;
- (vi) Accused disobeyed it;
- (vii) Such disobedience caused or tended to cause obstruction, annoyance, injury or

risk of the same to a person lawfully employed or caused or tendered to cause danger to human life, health or safety, or a riot or affray.

9. Now coming to the facts of the case, there is no reference to any promulgation of any order which has been violated by the petitioners. The allegations made in the FIR as already indicated above in the foregoing paragraphs of the Judgment itself goes to show that the basis for allegation of the offence punishable under Section 188 of the Indian Penal Code was the posting made on the social media that the meeting was organised in the school to celebrate Ambedkar Jayanti without obtaining any permission.

10. It is needless to mention that Section 195 of the Code of Criminal Procedure envisages filing of a complaint in writing by the public servant concerned, the contempt of whose lawful authority has been committed or some other public servant to whom he is administratively subordinate. There is no material in the record to suggest is to in this case who is the public servant, whose order has been disobeyed.

11. The FIR has been instituted by the Assistant Engineer-cum-Flying Squad Officer and there is no allegation that he has promulgated any order which has

been violated or disobeyed nor anyone who is subordinate to the informant has promulgated any order which has been disobeyed. There is no allegation that the petitioners knew the promulgation of any order. Under such circumstances, this Court has no hesitation in holding that the allegations made in the FIR even if are considered to be true in their entirety, still, no offence punishable under Section 188 of the Indian Penal Code is made out. Moreover, no complaint having been made, the learned S.D.J.M., Bermo at Tenughat ought not have taken cognizance of the offence punishable under Section 188 of the Indian Penal Code.

12. So far as the offence punishable under Section 171F of the Indian Penal Code is concerned, the same envisages punishment for a person who commits undue influence or personation at an election.

13. Now coming to the facts of the case, if the allegations made in the FIR are considered to be true in their entirety, still, the offence of commission of undue influence or personation is not made out against the petitioners as the essential ingredients to constitute the offence punishable under Sections 171F of the Indian Penal Code are as follows:-

(1) The accused interfered or attempted to interfere with free exercise of right of voting of any electorate;

(2) The accused did it voluntarily;

and the other part of section 171F is for personation at the election. Of course, there is no allegation against either of the petitioners of having committed personation.

14. Now coming to the facts of the case, undue influence at election has been defined in Section 171C of the Indian Penal Code. There is no allegation against either of the petitioners of interfering or attempting to interfere with free exercise of any electoral right. Under such circumstances, this Court has no hesitation in holding that even if the entire allegations made against the petitioners are considered to be true in their entirety, the mere fact of organizing of meeting in the hall of a school to celebrate Ambedkar Jayanti cannot constitute the offence punishable under Section 171F of the Indian Penal Code.

15. So far as the offence punishable under Section 171H of the Indian Penal Code is concerned, the essential ingredients to constitute the said offence are as follows :-

(1) An election is impending;

(2) The candidate has not given any general or special authority to the accused in writing to spend money at the election;

- (3) The accused made unauthorised expenses on-
 - (a) public meeting
 - (b) advertisement or circular or publication, or
 - (c) in any other way;
- (4) The accused did it for promoting, or procuring the election of the candidate;
- (5) Such unauthorised expenses exceeding the sum of Rs.10 were not ratified in writing by the candidate within 10 days of the expenditure.

16. Now coming to the facts of the case, there is absolutely no allegation of regarding any of the ingredients of the offence punishable under Section 171H of the Indian Penal Code having been made out against the petitioners.

17. In view of the discussions made above, as none of the offences in respect of which learned S.D.J.M., Bermo at Tenughat has taken cognizance is made out against the petitioners; therefore, the learned S.D.J.M., Bermo at Tenughat has committed an illegality by rejecting the petition for discharge of the petitioners overlooking the fact that the materials in the record is insufficient to frame charges against the petitioners. Therefore, this Court is of the considered view that continuation of the criminal proceeding against the petitioners will not amount to abuse of process of law and this is a fit case where the

entire criminal proceeding including the charge sheet no. 01 of 2024 and order dated 03.07.2024 passed by the learned S.D.J.M., Bermo at Tenughat as well as the order dated 17.12.2025 passed by the learned S.D.J.M., Bermo at Tenughat all in connection with Bermo P.S. Case No. 60 of 2024, corresponding to G.R. No. 385 of 2024 be quashed and set aside *qua* the petitioners.

18. Accordingly, the entire criminal proceeding including the charge sheet no. 01 of 2024 and order dated 03.07.2024 passed by the learned S.D.J.M., Bermo at Tenughat as well as the order dated 17.12.2025 passed by the learned S.D.J.M., Bermo at Tenughat all in connection with Bermo P.S. Case No. 60 of 2024, corresponding to G.R. No. 385 of 2024 is quashed and set aside *qua* the petitioners.

19. In the result, this criminal miscellaneous petition is disposed of.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 11th August, 2026
AFR/Gunjan/-

Uploaded on 12/08/2026