

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

Versus

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

... .. Respondents

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. Dr. K.N. Singh, Addl. 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)

11 07-04-2021 Heard Mr. Upendra Kumar Singh, learned Advocate, who is appearing as a best friend of the petitioner, Mr. Ashish Giri, who is representing a *Amicus Curiae*, Mr. P.K. Verma, learned A.A.G.-3 for the State and Mr. K.N. Singh, learned Additional Solicitor General, assisted by Mr. Kumar Priyaranjan, learned counsel for the Union of India.

In the present case, two Bangladeshi migrants namely, Ms. Marium Khatoon @ Mariyam Parveen and Ms. Mausmi Khatoon, have been arrested from the Patna Railway Station and they have been kept in After Care Home in Patna for last many years and they have given the details of address as



residents of Bangladesh but, no criminal case has been lodged against the illegal migrants.

The question, in the present case, has been raised in what manner the human rights problem should be resolved. Admittedly, they are illegal migrants, entered in the territory of India without valid documents.

Dr. K.N. Singh, learned Additional Solicitor General of India has stated that they have written a letter to Bangladeshi Embassy for their repatriation but, no response has been received from the Embassy. He has drawn the attention of this Court to paragraph no.5 of the counter affidavit, in which stand has been taken that in the case of illegal entry of the foreign citizen having no valid travel documents, they will be prosecuted in a criminal case but, after the expiry of the period of sentence, he/she be kept at appropriate place outside the jail premises with restricted movements pending their repatriation.

Mr. P.K. Verma, learned A.A.G.-3 for the State submits that they are being kept in After Care Home in proper manner and there is no such complaint that they are being kept in very bad manner. However, in the writ petition, a statement has been made by Mr. Upendra Kumar Singh, learned Advocate, himself that he was not allowed to take Power from



the petitioner.

In such view of the matter, this Court is of the view that it is necessary to constitute a team of three Advocates; one male Advocate and two female Advocates, to know about the fact that in what manner they are being kept in After Care Home.

Accordingly, we constitute a team of three Advocates comprising of Mr. Nikhil Agrawal, Ms. Ritika Rani and Ms. Anukriti Jaipuriyar. The aforesaid team will visit the After Care Home on **10.04.2021** for which this Court directs the Superintendent of After Care Home to allow the Members of the Team to interact with Ms. Marium Khatoon @ Mariyam Parveen and Ms. Mausmi Khatoon, who have been kept in After Care Home.

We are making it very clear that at the time of conversation/interaction, no official either of After Care Home or otherwise, will remain present there. If this Court would find that any such intervention has been made, the same will be viewed very seriously and this Court may directly initiate contempt proceeding against the erring officers / persons. It is also made clear that the officials of the After Care Home should not coerce the aforesaid Bangladeshi migrants to give answer in



their narrative but, the exchange of view will be without any fear and pressure but, in a fair manner.

The aforesaid Team of Advocates will submit its report within one week thereafter in a sealed cover.

It has been submitted by Mr. Ashish Giri, learned *Amicus Curiae*, that such type of persons cannot be kept in the After Care Home for a longer but, they should be shifted in Holding Centre or Detention Centre as per the direction of the Central Government. However, no affidavit has been filed from the side of the State that whether any such Centre has been created by the State Government for combating the issue with regard of illegal migrants, who have been arrested in the territory of State of Bihar.

In such view of the matter, this Court directs the State Government to file its counter affidavit with regard to creation of Holding Centres or Detention Centre for the illegal migrants.

The Central Government will also file its affidavit giving the present status of their interaction with Bangladeshi Embassy for repatriation of two female migrants to their native place. The Central Government would also apprise this Court in what manner the issue of illegal migrants are being taken up



where the native country is not ready to accept their respective citizen.

The aforesaid affidavits shall be filed within a period of 10 days from today.

List this case after 10 (ten) days.

Let this order be sent/communicated to Mr. Nikhil Agrawal, Ms. Ritika Rani and Ms. Anukriti Jaipuriyar, learned Advocates, for doing the needful.

This order should be communicated to the Superintendent / In-charge of After Care Home (Girl Remand Home).

(Shivaji Pandey, J)

(Partha Sarthy, J)

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