

**Court No. - 40**

**Case :-** WRIT - C No. - 17934 of 2023

**Petitioner :-** Srikant Tyagi and another

**Respondent :-** Union of India and 4 Others

**Counsel for Petitioner :-** Amrita Rai Mishra, Sr. Advocate

**Counsel for Respondent :-** A.S.G.I., C.S.C.

**Hon'ble Mahesh Chandra Tripathi, J.**

**Hon'ble Prashant Kumar, J.**

1. Heard Sri Rakesh Pande, learned Senior Advocate assisted by Ms. Amrita Rai Mishra for the petitioners; Sri Rajesh Kumar Vidyarthi, learned counsel for the Union of India and learned Standing Counsel for the State respondents.

2. By means of present writ petition, the petitioners have sought following reliefs:-

"i. A writ, order or direction in the nature of mandamus directing the State/respondent nos.2 and 3 to comply with the Order/Letter No.V.I. 023014/72/2017 V.S. dated 20.03.2017 and Order/Letter No.V.I. 023014/72/2017 V.S. dated 10.09.2018 issued by the Government of India/respondent no.1 and the Government of Uttar Pradesh may immediately ensure implementation of the direction to provide government paid security guards to the petitioner no.1, Srikant Tyagi as ordered/advised by the Government Order/Letter No.446/Chha-Pu-16/2018 dated 20.11.2018 and Government Order No.3871/Chha:Pu.16/2018-1100(170)/2019 dated 31.01.2019 and direct the authority concerned to continue the security of 4 government paid gunners to the petitioner no.1, Srikant Tyagi and 3 government paid gunners to his wife/petitioner no.2, Mrs.Anu Tyagi, as provided after assessment of the life threat reports of the Local Intelligence Unit.

ii) Issue any other suitable and proper order which this Hon'ble Court may deem fit and proper in the circumstances of the case.

iii) Award cost of the petition in favour of petitioners."

3. Brief facts, which emerge from the record, are that the first petitioner is an active politician. He also participates in social, political and religious programs in different districts of the State of UP and country. The second petitioner is the wife of the first petitioner. Due to political rivalry, some persons including one Vinay Tyagi, Ex-Block Pramukh of Samajwadi Party from Block Purkaji, District Muzaffarnagar, having criminal history of about

46 cases, extended threats for life to him and his family. It is alleged that while he was traveling from Ghaziabad to Lucknow on 18.10.2012, an incident took place at Toll Plaza Atariya, District Sitapur, wherein a high speed truck overtook his Innova Car with intention to kill him and he had suffered serious injuries. In this regard, the first information report was lodged on 02.11.2012 registered as Case Crime No.195 of 2012 under Sections 307,325,323 & 427 IPC, Police Station Atariya, Sighauli, District Sitapur and the trial of the said case is going on. Again the said history-sheeter attacked him on 04.04.2015 while he was returning from Lucknow to Ghaziabad in which he sustained serious injuries on his body. Regarding the said incident, the FIR was lodged on 01.05.2015 registered as Case Crime No.250 of 2015 under Sections 307 & 427 IPC, Police Station Sirsaganj, District Firozabad. Looking into the seriousness of the matter, the Central Government had issued a letter on 20.3.2017 indicating therein that the first petitioner is having serious life threat from the history-sheeters Vinay Tyagi & Tinku, Teetu @ Thakur, Ravindra @ Babli and Pradeep and they can commit murder of the first petitioner and his family members. The Local Intelligence Unit, Ghaziabad had also sent a report to the State authorities on 06.09.2017 stating therein that there is life threat to the first petitioner from the said criminals. In compliance of the orders dated 20.03.2017 and 10.09.2018, the first petitioner was provided security of four gunners on public expenses on 20.11.2018 and the second petitioner was also provided the security of three gunners on public expenses on 31.01.2019. Subsequently, the security of the petitioners has been withdrawn on 09.08.2022.

4. Sri Rakesh Pandey, learned Senior Advocate appearing for the petitioners in this backdrop submits that the history sheeter Vinay Tyagi and his gang members are continuously giving life threat to the first petitioner for withdrawing the said criminal case. There is serious apprehension that said Vinay Tyagi or any of his gang members may attack on the first petitioner and his family members with intention to kill them. The petitioners are receiving continuous life threats from the notorious criminals but the respondents are not providing adequate security to them. It is the responsibility of the State to secure life of every citizen and when there is a threat perception to the petitioner and his family members, non-action on the part of the respondents is arbitrary, unreasonable and in contravention of the statutory provisions, therefore, the petition deserves to be allowed and the petitioners be provided security at the cost of public exchequer.

5. On the other hand, learned counsel for the respondents have vehemently opposed the writ petition by contending that several criminal cases have been registered against the first petitioner and therefore, the writ petition does not require any interference and is liable to be dismissed.

6. We have considered the rival submissions made by learned counsel for the parties and have perused the material on record.

7. A perusal of the Government Order dated 25th April, 2001 shows that a security is provided as per the recommendation of the District Level Security Committee for a period of one month, which can be extended for a maximum of three months and further extension could only be given by the State Government on specific recommendation being given by the District Level Security Committee. The Government Order further provides that a review of the matter would be taken by the Committee on a monthly basis in order to review whether security is to be provided further considering the threat perception. From a perusal of the said Government Order, the Court further finds that the State Government has emphasized that no security should be provided to a person, who is indulging in criminal activities and against whom, it is feared that providing security to them could be misused. Admittedly, 11 criminal cases are registered against the first petitioner and the details of these criminal cases are given in paragraph-39 of the writ petition, which are reproduced herein below:-

"(i) Case Crime No.99 of 2007 under Section 387 IPC, Police Station Phase-2, District Gautam Budh Nagar.

(ii) Case Crime No.386 of 2007 under Section 3/4 of the U.P. Control of Goondas Act, 1970, Police Station Phase-2, District Gautam Budh Nagar.

(iii) Case Crime No.514 of 2008 under Sections 323, 325, 308, 506 & 427 IPC, Police Station Sector 39, District Gautam Budh Nagar.

(iv) Case Crime No.634 of 2009 under Sections 147, 336, 427, 504 IPC & Section 7 of the Criminal Law Amendment Act, Police Station Phase-2, District Gautam Budh Nagar.

(v) Case Crime No.635 of 2009 under Sections 147, 148, 336, 341, 427 IPC, Section 2/3 of the Prevention of Damage of Public Property Act, 1984 & Section 7 of the Criminal Law Amendment Act, Police Station Phase-2, District Gautam Budh Nagar.

(vi) Case Crime No.449 of 2015 under Sections 147, 323, 506 IPC, Police Station Phase-2, District Gautam Budh Nagar.

(vii) Case Crime No.309 of 2020 under Sections 323, 504, 506 & 307 IPC, Police Station Phase-2, Noida, District Gautam Budh Nagar.

(viii) Case Crime No.329 of 2022 under Sections 354, 323, 504, 506 & 447 IPC, Police Station Phase-2, Noida, District Gautam Budh Nagar.

(ix) Case Crime No.335 of 2022 under Sections 419, 420 & 482 IPC, Police Station Phase-2, Noida, District Gautam Budh Nagar.

(x) Case Crime No.339 of 2022 under Sections 419, 420 & 482 IPC, Police Station Phase-2, Noida, District Gautam Budh Nagar.

(xi) Case Crime No.340 of 2022 under Section 2/3 of the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986, Police Station Phase-2, District Gautam Budh Nagar."

8. More fundamental question that needs to be addressed is, whether it is desirable to provide personal security to persons, who are part of factions with long criminal record. In our opinion, providing personal security would bolster the activities of such person to the detriment of the society at large. A person, who has chosen violence and does not have any value of human life, has no right to plead that the State should take special measures to protect his life from his rivals. The threat perception, if any faced by such a person, is of his own making for which the State can not come forward to provide him security.

9. In the light of aforesaid Government Order dated 25.4.2001, this Court in **Gayur Hasan Vs. State of U.P. and others** 2009 (1) ACR 514 held:

"15. Moreover, irrespective of any reason whatsoever, if a person has indulged in criminal activities and thereby has enhanced perception of threat to his life and liberty, he himself is responsible for the same, and cannot look to the State to provide him separate security at the cost of common man when he himself is responsible for enhancing threat perception due to his anti-social activities. Whatever position an individual occupy in our democratic system, if he is engaged in anti social criminal activities, in our view, there is no justification to provide him security at the cost of tax payer society and common people of the State. His criminal activities are against the society. It is inconceivable that such a person shall be provided extra security at individual level to ensure that such activities at his level may continue with impunity. This in fact amounts to an encouragement to anti-social criminal elements to go ahead with such criminal activities and also enjoy an edge over his counter parts by obtaining State's security cover at the cost of common man."

10. In **Nutan Thakur Vs. State of U.P. & Ors.** (Writ Petition No. 6509 of 2013), a Division Bench of the Lucknow Bench of this Court, by an order dated 3rd March, 2014 held that security

provided by the State to persons having criminal activities should be removed immediately and thereafter, a review should be conducted by the State for providing security to those persons after considering objectively the evaluation of threat. The Court held:

"We, thus, provide that security to all such persons shall be removed within a period of ten days and thereafter review regarding threat perception may be conducted by the State Government at appropriate level within next fifteen days and depending upon the evaluation of threat perception in the manner provided herein above in this order, the State Government will consider for providing the security only if it is found that there is actual and real threat perception to the individuals concerned."

11. In the aforesaid facts and circumstances, we are not inclined to interfere in the matter.

12. Thus, the writ petition is devoid of any merit and it is, accordingly, dismissed.

**Order Date :- 4.7.2023**

RKP