

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No. 3635 of 2019

Shahnawaz Alam Petitioner
Versus

1. The State of Jharkhand
2. Officer-in-charge, Giridih Police Station, Giridih
3. Shahin Bano Respondents

CORAM : HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

For the Petitioner : Mr. Suraj Singh, Advocate
For the Respondents : Mr. Ankit Kumar, A.C. to G.P.-IV.

Order No. 04 : Dated 25th October, 2019

This writ petition is under Article 226 of the Constitution of India whereby and whereunder the petitioner has sought for a direction upon the Respondent No.2, the Officer-in-Charge of Giridih Police Station who, according to the petitioner, in excess to his jurisdiction, is acting by compelling the petitioner to vacate the rented premises pertaining to Holding No.263, Ward No.4 (Old) and Ward No.13 (New) situated at Mohalichumba, Station Road, P.S. Giridih, District Giridih.

It is the case of the petitioner that he happens to be the tenant of the Respondent No.3 but the Respondent No.3 without making an application for eviction under the provision of Jharkhand Buildings (Lease, Rent & Eviction) Control Act, 2012 is utilizing the power of the local police station by way of compulsion to vacate the premises which is without jurisdiction and therefore, the present writ petition.

Mr. Ankit Kumar, learned A.C. to G.P.-IV appearing for the State of Jharkhand has submitted that even accepting the contention raised by the petitioner to be true, but it is nowhere available in the pleading that if the Officer-in-Charge of the concerned police station is acting in excess to his

jurisdiction, the same should have been reported to the higher authorities.

It has further been submitted that if the local police officer is acting excess to his jurisdiction which means that he is misutilizing his official position and for that proper remedy is available to the petitioner to make a complaint before the higher authority but having not been done so, the present writ petition has been filed seeking a direction under Article 226 of the Constitution of India by issuance of writ of mandamus without exhausting the remedy available to him and in view thereof, this writ petition is not maintainable.

This Court, after hearing learned counsel for the parties and appreciating the rival submissions advanced on their behalf, is not in disagreement with the submission made on behalf of the learned State counsel for the reason that the power of High Court to issue writ under Article 226 of the Constitution of India in the nature of mandamus is to be exercised after exhausting all the remedies available to the party.

The remedy available to the party in the context of present case is to first make his grievance before the concerned authority and if there would be any inaction on the part of the authority, the writ of mandamus can be issued under Article 226 of the Constitution of India.

This Court has found non-availability of these facts and therefore, not inclined to pass positive direction in favour of the petitioner.

This writ petition is, accordingly, dismissed.

(Sujit Narayan Prasad, J.)

Birendra/