

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**W.P.(Cr.) No. 38 of 2018**

Mazdoor Sangathan Samiti through its Secretary namely Baccha Babu Singh, son of Upadhyay Singh, resident of Nisan Flat, Qr. No. HMD 50D, PO&PS-Bokaro Thermal, District-Bokaro ... Petitioner

*Versus*

1. The State of Jharkhand  
2. The General Secretary, Department of Home, Prisons and Disaster Management, Government of Jharkhand, Project Building, Dhurwa, PO&PS-Dhurwa, District-Ranchi, Jharkhand ... Respondents

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(Through V.C.)

**CORAM: HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR**

For the Petitioner : Mr. Jitendra Shankar Singh, Advocate  
For the State : Mr. Deepankar Roy, AC to AG

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**Order No. 16/Dated: 11<sup>th</sup> February 2022**

Mazdoor Sangathan Samiti is aggrieved of the Notification dated 22<sup>nd</sup> December 2017 by which the Department of Home, Prisons and Disaster Management, Government of Jharkhand has declared it an unlawful organisation under section 16 of the Criminal Law (Amendment) Act, 1908.

2. In the writ petition a specific plea has been raised that no material was placed before the competent Authority to establish that Mazdoor Sangathan Samiti is frontal organisation of C.P.I (Maowadi) nor any complaint was ever made against the Samiti that it was involved in any extremist activity or propagating the cause of extremists.

3. At the outset, the Court records its displeasure the way this matter has been prosecuted by the State. In the first place, complete facts are not put on affidavit and secondly, inspite of opportunities granted affidavits are not filed in time or not at all.

4. On 3<sup>rd</sup> May 2019, 14<sup>th</sup> June 2019 and 2<sup>nd</sup> August 2019 hearing of this writ petition was adjourned on the request of the learned State counsel for filing counter affidavit in the matter. Thereafter the writ petition came on Board on several occasions and many times adjournments were taken by the learned State counsel for seeking instructions in the matter.

5. Apart from that, it has come on record that the judgment in W.P.(Cr.) No. 94 of 2018 on which the petitioner has placed reliance has

attained finality as the said order was not challenged by the State. At this stage, it needs to be indicated that in the order dated 7<sup>th</sup> February 2020 the Court has recorded that atleast five adjournments were taken by the State but the Court was not apprised what step was taken for challenging the judgment in W.P.(Cr.) No. 94 of 2018.

6. In the counter-affidavit dated 3<sup>rd</sup> August 2019 filed on behalf of the respondents, in paragraph no. 20, it is stated that a fresh notification was issued vide Notification no. 124 dated 12<sup>th</sup> February 2019 against Popular Front of India in respect of which W.P.(Cr.) 94 of 2018 was filed. But beyond that nothing has been stated by the State-respondents why reliance placed by the petitioner on the judgment in W.P.(Cr.) No. 94 of 2018 is not tenable. And, the plea raised by the petitioner that the order under section 16 of the Criminal Law Amendment Act was passed without issuing any notice to it has not been controverted by the State-respondents. The learned State counsel would take the Court through paragraph nos. 26, 27 and 30 of the counter-affidavit.

7. In paragraph nos. 26 and 27 of the counter-affidavit, the State-respondents have averred as under:

*“26. That the Frontal Organization of the naxals as mentioned above in the year 2008 Krantikari Kisan Committee, Nari Mukti Sangh, Jharkhand Group Awam Krantikari Sanskritik Manch were banned and they challenged their mode of operation and they again formulated another Frontal Organisation in the name of present petitioner's organization namely Mazdoor Sangathan Samiti.*

*27. That thus from the above stated fact it is apparent that the present petitioner in the name of Trade Union Act are not working really for the Trade Union or for the trade dispute or for another relationship between the employer and employee rather they are providing frontal links and acting as a frontal organization for the naxal activities.”*

8. In paragraph no. 30 of the counter-affidavit, the State-respondents have stated thus:

*“30. That the reason being so before giving para wise reply to the writ application the point and issue involved in the present writ application for invoking section 16 of the Criminal Law Amendment Act against the present petitioner is as follows:*

*(i) The present petitioners are deeply engaged in unlawful activities which are detrimental to the society and having a threat as they are indulged in celebrating 50<sup>th</sup> anniversary of Naxalbari Kisan Upsringing.*

*(ii) They are supporting Motilal Baske who was killed in encounter by the police on 09.06.2017 in police station in Giridih.*

*(iii) The members of the petitioner's organization have got*

*many criminal links and they are closely related with the naxal movements and also to other naxal members Damodar Turi who was arrested in Tamil Nadu in the year 2012.  
(iv) The petitioner's organization is directly in touch with Warwasa Rao who is an activist naxal supporter who belongs to Andhra/Telangana."*

9. This Court finds that except making the aforesaid statements in the counter-affidavit no material has been produced by the State-respondents to suggest that notification under section 16 of the Criminal Law Amendment Law was issued on the basis of sufficient evidence against the Samiti, that it is a frontal organisation of C.P.I (Maowadi) involved in extremist activities and propagating the cause of naxalites.

10. In the aforesaid facts, this Court finds itself bound by the judgment in W.P.(Cr.) No. 94 of 2018 which has attained finality.

11. In view of the aforesaid discussions, Notification dated 22<sup>nd</sup> December 2017 is quashed. W.P.(Cr.) No. 38 of 2018 is allowed, however, with liberty to the State of Jharkhand that it may proceed in the matter in accordance with law.

**(Shree Chandrashekhar, J.)**

*Tanuj/*