

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19142 of 2010

HARENDRAPRATAPSINGH,ADVOCATE S/O Sri Brahma Dayal Singh, 'Freedom Fighter' R/O Vill.- Narbirpur, Panchayat-Narbirpur, Proposed Block Narbirpur, Police Station- Koelwar, Distt.- Bhojpur Arrah, Proposed Division-Shahabad Arrah Present Address-2a, Kamla Apartment, Kavi Raman Path, Purbee Boring Road, Patna Near Ex-Chief Minister Late Satyendra Narayan Sinha And Practicing As An Advocate A Member Of Advocates Association, Advocates' House, Patna High Court, Patna, in the State of Bihar (In person)

... ... Petitioner/s

Versus

1. THE STATE OF BIHAR and ORS Old Secretariat, Patna
2. The Chief Secretary, Got. Of Bihar Old Secretariat, Patna
3. The Principal Secretary, The Department Of Cabinet Secretariat Govt. Of Bihar, Old Secretariat, Patna
4. The Pricipal Secretary General Administrative, Department Govt. Of Bihar, Old Secretariat, Patna
5. The Principal Secretary, The Department Of Home Null Govt. Of Bihar, Old Secretariat, Patna
6. The Principal Secretary, The Department Of Parliamentary Work Govt. Of Bihar, Patna
7. The Prinipal Secretary, The Department Of Finance Govt. Of Bihar, Old Secretariat, Patna
8. The Principal Secretary, Human Resources Development Department Govt. Of Bihar, New Secretariat, Vikash Bhawan,Patna
9. The Pricipal Secretary, Governor Secretariat Govt. Of Bihar, Patna
10. The Joint Secretary, Governor Secretariat, Bihar, Patna
11. The Principal Secretary, Chief Master Secretariat, Bihar, Patna
12. The Joint Secretary, Chief Minister Secretariat, Bihar, Patna
13. The Union Of India Through The Secretary Of Ministry Of Home Affairs Govt. Of India, New Delhi
14. The Secretary Of Ministry Of Home Affairs Govt, Of India, New Delhi
15. The Secretary, Department Of Law, Justice And Company Affairs In The Department Of Legal Affairs Govt. Of India, New Delhi
16. The Secretary Of Ministry Of Planning And Parliamentary Affairs Govt. Of India, New Delhi
17. The Registrar General, Patna High Court, In The State Of Bihar Patna
18. The Registrar List And Computer, Patna High Court, In The State Of Bihar, Patna
19. The Secretary Of Legislative Assemblies In The State Of Bihar, Patna



20. The Deputy Secretary Of Legislative Assemblies In The State Of Bihar, Patna
21. The Secretary Of Legislative Council, In The State Of Bihar, Patna
22. The Deputy Secretary Of Legislative Council In The State Of Bihar, Patna

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Harendra Pratap Singh
For the State	:	Mr. AAG-9
For the Resp. No. 17 & 18 (PHC)	:	Mrs. Anukrit Jaipuriyar, Adv.

**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT**

Date : 19-08-2025

Heard, the petitioner (in person), learned counsel for the Respondent No. 17 & 18 (Patna High Court) and learned counsel for the State. However, no one appears on behalf of the Union of India.

2. The petitioner, appearing in person, submits that Order No. 2 dated 24.11.2010 is highly relevant, which reads as follows:-

“The petitioner, a practising Advocate of this Court, has a complaint against the State of Bihar and its officers for not using National Emblem on the official stationery and for coining a separate State emblem.

The matter can hardly be a matter of concern for the public in general.



Let the matter be listed before the learned single Judge taking up miscellaneous writ petitions.

The petitioner will amend the cause title accordingly.”

3. He further submits that Order No. 4 dated 10.01.2019 is also of significant relevance, which reads as follows:-

“Heard.

Admit.

Since the parties have already entered appearance, no fresh notice is required to be issued.”

4. The petitioner (in person) submits that the present writ petition has been filed seeking a direction to the respondents, Principal Secretaries, Secretaries, Heads of Departmental Commissioners, the District Magistrate-cum-Collector, and officers of the State of Bihar, including persons holding constitutional posts, to use the emblem as prescribed under the Emblem and Names (Prevention of Improper Use) Act, 1950, the State Emblem of India (Prohibition of Improper Use) Act, 2005, and the State Emblem of India (Regulation of Use) Rules, 2007 (hereinafter referred to as ‘Rules of 2007’). The petitioner further submits that the Rules of 2007 were



notified in the Gazette of India on 4th October 2007. These Rules were framed under the powers conferred by Section 11 of the State Emblem of India (Prohibition of Improper Use) Act, 2005 (50 of 2005), regulating the use of the State Emblem of India in official seals, stationery, and design. He further submits that Schedule 1 of the said Rules of 2007 specifies in detail the names of the functionaries authorized to use the emblem. According to the petitioner, those functionaries whose names appear in Schedule 1 shall not use any other symbol. Hence, the petitioner has filed the present writ petition seeking a writ of mandamus directing compliance with the said provisions.

5. Learned counsel for Respondent Nos. 17 and 18 (Patna High Court) submits that the writ petition filed by the petitioner is not maintainable for two reasons. Firstly, the relief sought by the petitioner is based on distinct statutes, namely, the Emblems and Names (Prevention of Improper Use) Act, 1950 [Act No. 12 of 1950], the State Emblem of India (Prohibition of Improper Use) Act, 2005 [Act No. 50 of 2005] and the Rules of 2007. Counsel further submits that the first two Acts have been enacted for specific and separate purposes, namely, "*an Act to prevent the improper use of certain emblems and names for professional and commercial purposes*" and "*further an Act*



prohibit the improper use of the State Emblem of India for professional and commercial purpose and for matters connected therewith or incidental thereto" respectively. Counsel also submits that although both Acts pertain to the prevention of the improper use of emblems, the present writ petition seeks a direction against the State of Bihar and its officials for mandatory use of the national emblem on official stationery and for coining a separate State Emblem.

6. Counsel further submits that in the said Rules of 2007, particularly Rule 4 of the Rules of 2007 is most relevant, as it clarifies the petitioner's doubts regarding the binding precedent of the said emblem, as well as the applicability of any other design, specifically concerning adoption by the State or Union Territories.

7. With a view to deciding the present writ petition, it is necessary to quote the specific Rule 4 of the Rules of 2007, which is as follows:-

"4. Adoption by States or Union territories. (1) A State Government may adopt the emblem as the official Emblem of the State or the Union territory, as the case may be, without obtaining the approval of the Central Government.

(2) Where a State Government



proposes to incorporate the emblem or any part thereof in the Emblem of that State or Union territory, as the case may be, it shall do so after obtaining the prior approval of the Central Government and shall get the design and lay out approved by the Central Government:

Provided that where a State Government has already incorporated the emblem or part thereof in the Emblem of that State or Union territory, as the case may be, prior to the coming into force of these rules, it may, subject to the other provisions of these rules, continue to use the emblem.”

8. Upon a bare reading of Rule 4 of the Rules of 2007, it is clear that the adoption of the said emblem is not a binding precedent upon the State. The Rule itself states that the State Government may adopt the emblem, and if, prior to the enactment of this Rule, the State was using any other emblem, it may continue to use that emblem as the State Emblem.

9. In this view of the matter, particularly after a bare reading of the provisions of the Rules of 2007, it becomes crystal clear that the adoption of the emblem is not a binding precedent. Therefore, this Court finds no merit in the present writ petition. It is the prerogative of the State to adopt the said



emblem, but it is not a binding principle.

10. Accordingly, the present writ petition stands disposed off.

(Dr. Anshuman, J.)

Aman Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.08.2025
Transmission Date	NA

