

## I-T dept should protect human rights during raids: Patna HC

Income Tax (I-T) officials should ensure no harassment is caused to the family during raids. Patna high court recently issued an order to this effect while upholding Bihar's human rights commission's direction.

The court also instructed the tax authority (income tax in this case) to consider issuing appropriate instructions during future raids to record the duration of interrogation and breaks.

The matter came to light following a case filed by a saw mill owner in Patna. Rajendra Singh, the applicant had alleged I-T officials had interrogated him for 36 hours without intervals. During the raid, I-T officials had recovered Rs 4.81 crore of undisclosed income.

The Commission, ruling in Singh's favour, held that prima facie, there has been violation of human rights by the I-T officials. It even held that Singh was entitled to monetary compensation to be recovered from the salary of the officers concerned in accordance with law.

The I-T department had taken the matter to the Patna high court.

While upholding the order of the Commission on the aspect of violation of human rights early this month, the court suggested the department would consider issuing appropriate instructions.

The court, however, quashed the notice issued by the Commission to the I-T officers on the issue of monetary compensation.

Commenting on the case, Mumbai-based tax practitioner Shailesh Sheth said, "The revenue department is known to commit excess during raids and this judgment will put a check on such excess. The judgment applies not only to Income Tax but to other tax departments, too."

While conducting raids by the excise, customs-department of revenue intelligence and VAT enforcement, such excess are not uncommon. There are several cases and judgments, which support the action of the I-T department in carrying out searches and seizure for long duration, even running into days, if the circumstances so warrant.

However, this is perhaps for the first time that more than one judicial forum has asked the department to ensure basic human rights are not violated.

The Commission further observed that "continuing search without any break at odd hours up to 3.30 am, forcing the applicant and/or his family members to remain awake when it is time to sleep was a torturous act. It was violation of their rights relating to dignity of the individual and, therefore, violation of human rights".

Quoting Article 7 of the International Covenant on Civil and Political Rights, the court said, “No one shall be subject to torture or cruelty or degrading treatment or punishment.”

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