

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19215 of 2011

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Alok Chamaria Son of Late Ram Gopal Chamaria Resident of Mohalla Company Sarai, Ward No. 2, Sasaram, P.O. & P.S. Sasaram, District Rohtas

.... Petitioner

Versus

1. The Union of India through the Secretary, Archaeological Department, Government of India, New Delhi
2. The Director of Archaeology, Archaeological Survey of India, Government of India, New Delhi
3. The Superintendent of Archaeology, Archaeological Survey of India, Patna Circle, Patna
4. The Conservation Assistant, A.S.I. Sasaram Office, Shershah Rouza Campus, P.O & P.S. Sasaram, District - Rohtas
5. The State of Bihar through the Collector Rohtas at Sasaram, P.O. & P.S. Sasaram, District Rohtas

.... Respondents

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Appearance :

For the Petitioner : Mr. Arun Kumar Shrivastava, Advocate
For the State : Mr. Lalit Kishore, PAAG
Mr. Rabindra Kumar Priyadarshi, SC-32
For the UOI : Mr. Ravinder Kumar Sharma, C.G.C.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 10-02-2015

The petitioner is a public spirited citizen is a resident of Mohalla Company Sarai, Ward No.2, Sasaram, District Rohtas expressing his concern over poor maintenance of the Mausoleums of erstwhile Emperor Sher Shah Suri and his father. He filed CWJC No. 11271 of 2006 before this Court with a prayer to direct the authorities of Archaeological Survey of India, Revenue Department of State of Bihar and the Municipal Corporation of Sasaram to take necessary steps for protecting



the monuments. The writ petition was disposed of on 17.11.2008 by issuing a set of directions to various Respondents therein. This writ petition is filed with a prayer to direct the Respondents to comply with the directions issued in CWJC No. 11271 of 2006. The petitioner contends that on earlier occasion he filed Miscellaneous Petition for revival of CWJC No. 11271 of 2006, on finding that the action taken report of the authorities are not satisfactory and the Court gave an opportunity to file a fresh writ petition.

The Respondents filed separate counter affidavits. According to them almost all the directions issued by the Court are complied with and there is no merit in the writ petition.

Heard Sri Arun Kumar Srivastava, learned counsel for the petitioner, Sri Lalit Kishore, learned Principal Additional Advocate General for the State and Sri Ravinder Kumar Sharma, learned Central Government Counsel for the Archaeological Survey of India.

In the order dated 17.11.2008 this Court expresses its concern over the present state of affairs existing at the point of time and issued the following directions :-

- i. The Director of Archaeology, Archaeological Survey of India, Government of India (Respondent no.2) and the Superintendent, Archaeology, Patna Centre, Patna (Respondent no. 3) shall take steps under the Ancient Monuments Preservation Act, 1904; Ancient Monuments and Archaeological Sites and Remains*

Act, 1958; the notifications issued from time to time thereunder and all other relevant provisions of law for delineating 'prohibited area' and 'regulated area'.

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- ii. The respondent nos. 2 and 3, namely, Director of Archaeology, Government of India and the Superintendent of Archaeology, Patna shall get a restoration plan prepared, and, if necessary, by seeking advice from experts, for restoration of the subject monument and ensure that the monument is restored as per said plan.*
 - iii. The District Magistrate, Rohtas and the other functionaries of the State Government shall provide all necessary help to the Archaeological Survey of India in stopping use of the tank for bathing and washing clothes and from immersion of idols in the said tank in any manner whatsoever.*
 - iv. The respondent Nos. 4 and 5 shall help the respondent nos. 2 and 3 in cleaning the pond/tank and for removal of all accumulated mud, garbage, stinking filth and other objects causing damage out of the pond/tank. Once the pond/tank is cleaned, the respondent nos. 2 and 3 shall ensure that it is maintained regularly.*
 - v. The respondent Nos. 2 and 3 shall take steps with the help of local administration to ensure that the sewerage of the locality does not enter the pond/tank.*
 - vi. The respondent nos. 4 and 5 shall ensure desilting of the inlet and outlet canal and further ensure their proper maintenance and that inlet and outlet canals do not get choked.*
 - vii. The respondent nos. 2 and 3, while granting fishing contract shall ensure that the cleanliness of the*

pond/tank is not affected by such activities.

viii. *The respondent nos. 2 and 3, in addition to the specific directions as above, shall take all other steps generally for protection and preservation of the subject monument.*

Thereafter, the petitioner filed Interlocutory Application and M.J.C. On their part, the Respondent authorities submitted Action Taken Reports. In case the petitioner is of the view that any specific direction issued by this Court have not been complied with, the only course of action by him to file a contempt case.

It is fairly well settled that a writ petition cannot be filed for enforcement of the directions issued in another writ petition. Therefore, even while reiterating the directions issued by this Court in CWJC No. 11271 of 2006 we dispose of this writ petition, leaving it open to the petitioner, to take necessary steps for enforcement of the directions, in case there is any non-compliance.

Interlocutory Applications, if any, stands disposed of. There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

Chandran/Md.Ibrarul

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(Vikash Jain, J)