

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16689 of 2014

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1. Arun Tiwari, son of Late Nageshwar Tiwari.

2. Surendra Tiwari, Son of Late Jwala Tiwari.

Both are resident of village - Bheraharia, P.O. - Siyarampur, P.S. -
Paliganj, District - Patna.

.... Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Department
of Rural Works Department, Bihar, Patna.

2. The Principal Secretary, Rural Works Department, Bihar, Patna.

3. The Chief Engineer, Rural Works Department, Bihar, Patna.

4. The Superintending Engineer, Rural Works Department, Bihar,
Patna.

5. The Executive Engineer, Rural Works Department, Works
Division Paliganj, District - Patna.

6. The Assistant Engineer, Rural Works Department, Works Sub-
Division Paliganj, District - Patna.

7. The Junior Engineer, Rural Works Department, Works Sub-
Division Paliganj, District - Patna.

8. The District Magistrate, Patna.

9. The Vigilance Commissioner, Bihar, Patna.

10. The Senior Superintendent of Police, Patna.

11. The Superintendent of Police (Rural), Patna.

12. The Deputy Development Commissioner, Patna.

13. The Sub-Divisional Officer, Paliganj, District - Patna.

14. The Officer-in-Charge, Paliganj P.S., District - Patna.

.... Respondents

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Appearance :

For the Petitioners : Mr. Arun Kumar Arun, Adv.

For the State : Mr. D.K. Sinha, AAG-2

Mr. Alok Kr. Rahi, AC to AAG2

Advocate Commissioner

: Mr. Madhuresh Prasad, Adv.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

Date: 22-09-2015

Raising grievance over poor construction of road bridge in Village-Bheraharia, situated under Paliganj police station of Patna district, the present writ application, under Article 226 of the Constitution of India, in the nature of Public Interest Litigation, has been filed seeking direction to the respondents to enquire and investigate into the sub-standard works having been done by the respondents for construction of the said road bridge.

2. We have heard Mr. Arun Kumar Arun, learned counsel, appearing on behalf of the petitioners, Mr. D.K. Sinha, learned Additional Advocate Genera-2, appearing on behalf of the State. Mr. Madhuresh Prasad, learned counsel, appointed by this Court as Advocate Commissioner, to make spot enquiry is also present.

3. Counter affidavits have been filed on behalf of



the respondent Nos.3 to 5, namely, the Chief Engineer, Rural Works Department, Bihar, Patna, the Superintending Engineer, Rural Works Department, Bihar, Patna and the Executive Engineer, Rural Works Department, Works Division Paliganj, Patna, and respondent Nos.5 to 8, 12 and 13, namely, the Executive Engineer, Rural Works Department, Works Division Paliganj, Patna, the Assistant Engineer, Rural Works Department, Works Sub-Division Paliganj, Patna, the Junior Engineer, Rural Works Department, Works Sub-Division Paliganj, Patna, the District Magistrate, Patna, the Deputy Development Commissioner, Patna and the Sub-Divisional Officer, Paliganj, Patna.

4. By an order, dated 15.09.2015, in order to appreciate the correct state of affairs and in view of specific contentions being made by the petitioners that the bridge, in question, has developed cracks even before its completion, we had appointed Mr. Madhuresh Prasad, learned counsel, as an Advocate Commissioner, to visit the site and submit a report. Learned Advocate Commissioner has submitted a report, prepared on the basis of on-the-spot enquiry, to the effect that though with the naked eyes, cracks in the joint of parapet with the railing of the main bridge of the deck could be seen, but it was not possible for him to give specific opinion as to whether such cracks were superficial or there

was some foundational defect.



5. In the counter affidavit, filed on behalf of the respondent Nos.5 to 8, 12 and 13, sworn by one Mr. Murlidhar Prasad, the Executive Engineer, R.W.D. Works Division, Paliganj, it has been stated that pursuant to an order of District Magistrate, Patna, dated 14.02.2015, a three-man team was constituted to enquire into the matter and submit a report as regards the quality of the construction of the works in question. Pursuant to the order, dated 14.02.2015, the said team is said to have conducted an enquiry and submitted a report, which has been brought on record by way of Annexure-G to the counter affidavit, filed on behalf of respondent Nos.5 to 8, 12 and 13, certifying that the construction done was as per the prescribed specifications and the construction work was satisfactory. There is specific averment, in the said counter affidavit, that there has been no misappropriation of any public money and no irregularity has been committed by the respondents in course of construction work of the said bridge.

6. In view of the specific stand taken on behalf of the respondents in their respective counter affidavits, we do not intend to keep this matter pending any further. We dispose it of in view of the averments made on behalf of the

respondents, as noted above. We, however, make it clear that if any structure or other defect is detected, in future, in the construction of the bridge, in question, the persons, on whose behalf the said counter affidavit, sworn by Mr. Murlidhar Prasad, the Executive Engineer, R.W.D. Works Division, Paliganj, has been filed, will be liable for appropriate action and the petitioners shall have the liberty to approach this Court, again, raising grievance, if any. The writ petitioners shall also have the liberty to take recourse to appropriate provisions of law for remedy of their grievances or even to institute suit in a Court of competent jurisdiction, if so advised.

7. Before we close this present proceeding, we place on record our deep appreciation for the assistance given to this Court by Mr. Madhuresh Prasad, learned counsel, who took pains to make on-the-spot inspection and submitted a report as indicated above.

8. This present proceeding stands closed.

(I. A. Ansari, ACJ.)

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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