

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16217 of 2014

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1. Abhimanyu Kumar S/o Sri Arjun Prasad Singh Resident of Village + P.O.+P.S.-
Hathidah, District- Patna At present Resident of C/o Madan Prasad Singh (Retd.
Engineer), Road No. 13, Rajendra Nagar, P.S.- Bahadurpur, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary, Department of Home, Govt. of Bihar, Patna
3. The Chairman, Bihar State Pollution Control Board, Beltron Bhawan,
Shastrinagar, Patna
4. National Highway Authority of India through its Project Director, Patna
5. The District Magistrate, Patna
6. The Superintendent of Police (Rural), Patna
7. The Sub-Divisional Officer, Barh, District- Patna
8. The Officer-in-charge, Hathidah P.S., District- Patna
9. The Principal Secretary, Department of Mines and Mineral, Govt. of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madhu Prasun

For the Respondent/s : Mr. Anil Kumar Sinha, G.A.-9

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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: 24-09-2015

This writ application under Article 226 of the Constitution
of India has been filed in the nature of public interest litigation
seeking direction from this Court to the respondents State of Bihar,
the Bihar State Pollution Control Board and the National Highway
Authority of India to ensure that the sand being mined at Lakhisarai
be not allowed to be stored on the sides of N.H.31 and 80 in Hathidah

Panchayat Raj of Mokama block of Patna District. It is the petitioner's case that illegal storage of the sand on the said highways has caused serious threat to the lives of the people commuting through that area and has resulted into recurrent accidents. It has been alleged that the traders engaged in the business of sand mining at Lakhisarai with impunity, after mining sand, store them on the both sides of the said National Highways, covering the stretch of nearly 15 k.m, for the purpose of their transportation through nearby Rajendra Nagar Bridge.

2. Heard learned counsel appearing on behalf of the petitioner and the learned counsel appearing on behalf of the State.

3. In the light of certain directions issued by the Court, the respondents have filed their counter affidavits. A supplementary counter affidavit has been filed on behalf of the District Magistrate, Patna, making following statements in paragraphs 4 to 10:-

"4. That the aforesaid matter was heard on 09.09.2015 and the operative part of the order dated 09.09.2015 is as follows:-

"In view of the above and in the interest of justice, it is hereby directed that the PIL be listed on 23.09.2015 under the present heading. In the meanwhile, the respondents shall do the needful in accordance with law and submit, in the form of affidavit, a report on the action or actions, which may have been taken by them.

5. That it is pertinent to state that the respondents had earlier filed detailed counter affidavit bearing Oath no. 93178 dated 29.07.2015 in the aforesaid matter regarding the needful action taken in the aforesaid matter.

6. That in the light of the order dated

09.09.2015 passed by this Hon'ble Court the District Magistrate, Patna vide letter no. 2977 dated 18.09.2015 issued directions to the Sub Divisional Officer, Barh to coordinate with the Assistant director, Mines, Patna, the Sub Divisional Police Officer, Barh, and the Officer-in-charge, Hathidah and take needful action for full compliance of the order dated 09.09.2015 passed by this Hon'ble Court.

7. That the Sub Divisional Officer, Barh sought report from the Additional S.P., Barh and S.P. (Rural), Patna vide memo no. 2867 dated 17.09.2015 in the aforesaid matter. Similarly, reports were sought from the Assistant Director Mines, District Mines Office, Patna, the Executive Engineer, N.H.31 and N.H. 80, PWD, Patna, the circle Officer, Mokama along with the Officer-in-charge, Hathidah vide Memo No. 2868, 2869 and 2870 dated 17.09.2015 respectively in the aforesaid matter for the compliance of the order dated 09.09.2015 passed by this Hon'ble Court.

8. That it is relevant to state here that a meeting was conducted on 19.09.2015 under the Chairmanship of the Sub Divisional Officer, Barh and the proceedings of the said meeting was issued vide Memo No. 2884 dated 19.09.2015 regarding the needful action taken by the concerned authorities in the aforesaid matter.

9. That it is pertinent to state here that the Assistant Director, Mines, Patna in his report, as contained in Letter no. 01/M dated 10.09.2015 had stated that a spot-enquiry was done along with the Mines Inspector, District Mines Office, Patna and an FIR has been lodged against 15 persons in the PS case No. 68 dated 24.07.2015 for storing sand illegally in Hathidah. However, no legal or illegal storage of sand was found near the Rajendra bridge. It is also stated that two persons namely, Ganga Enterprises and Dayanand Singh have been issued licence bearing license No. 2 of 2015 and 3/2015 respectively by the Mines and Archeology Department.

10. That it is further pertinent to state that the Additional S.P. , Barh and the Officer-in-charge, Hathidah in their report have mentioned that charge sheet bearing no. 86 of 2015 dated 19.09.2015 has



been filed against 14 persons against the 15 persons accused in P. S. case no. 68 of 2015 dated 24.07.2015. A report has been submitted before the Court of the Sub-Divisional Officer, Barh for taking action against 20 persons under Section 107 Cr.P.C. in non-FIR no. 45/2015 dated 11.09.2015. A regular monitoring is done by the police force on the said N.H. 80 and vide recording is also being done. The deployment of police officers have also been done for patrolling so that the flow of traffic is smooth. A list of vehicles overloaded with sand and vehicles overtaking were seized and the list of the seized vehicles, as mentioned in the letter dated 16.09.2015 by the Officer-in-charge, Hathidah, Police Station."

4. Another supplementary counter affidavit has been filed on behalf of Superintendent of Police (Rural), Patna stating therein that in order to ensure that such activities do not take place in future, the station House Officer of Hathidah Police Station has been asked to maintain strict vigil on illegal carrying and storage of sand alongside the road. It has further been stated that First Information Reports have been lodged against the persons involved in such activities.

5. In view of the aforesaid, it transpires that the authorities have taken action for the removal of illegal storage of sand on the National Highways and have taken steps to ensure that such activities do not recur in future.

6. We, accordingly, close the present proceeding under public interest litigation, with an observation and direction to the respondents to ensure that there is no recurrence of illegal storage of

sand mines on National Highways, else the District Mining Officer and the concerned Station House Officer of the Police Station will be liable for appropriate action.

(I. A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

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