

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18193 of 2016

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1. Umada Devi W/o Shambhu Prasad resident of Village- Khalkochak, P.S.- Makhdumpur, Dist-Jehanabad at Present Ward Commissioner, Nagar Panchayat, Makhdumpur, Jehanabad
 2. Geeta Devi W/o Jitendra Kumar Sharma Resident of Village- Indrapur, P.S. Makhdumpur, District-Jehanabad at Present Ward Member of Solhanda Gram Panchayat Makhdumpur Block of Jehanabad district

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Govt. of Bihar, Patna
2. The principal Secretary, Water Resources Department, Govt. of Bihar, Patna
3. The principal Secretary, Water Resources Department, Govt. of Bihar, Patna
4. The Engineer-in-Chief, Water Resource Department, Govt. of Bihar, Patna
5. The Engineer, Central Mapping and Research, Anisabad patna
6. The Commissioner, Magadha Division, Gaya
7. The District magistrate, Jehanabad
8. The Chief Engineer, Water Resource Department, Gaya
9. The Superintending Engineer, Bandh and Gate Mapping Circle, Water Resources Department, Anisabad, Patna
10. The Superintending Engineer, Water Ways Circle, Ghosi
11. The Executive Engineer, Water Ways Division, Jehanabad
12. The Assistant Engineer, Water Ways Sub-Division, Jehanabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. K.N. Chaubey, Sr. Advocate
Mrs. Ritu Priyadarshi, Advocate
Mr. Animesh Kumar, Advocate
Mr. Prashant Kumar, Advocate
Mr. Ambuj Nayan Chaubey, Advocate
For the Respondent/s : Mr. Anjani Kumar-AAG-4

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CORAM: HONOURABLE THE CHIEF JUSTICE



and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 19-07-2017

This petition has been filed in public interest and the grievance raised in the petition is to issue a direction to the respondent to carry out the construction work of Solhanda weir over Yamuni river in Makhdumpur Block, Jehanabad. It is said that due to rise of height of the crest of the weir, which is a beneficial scheme for the people at large, the command area for irrigation would increase from 900 hectares to 1100 hectares and for this revised estimated scheme has been prepared and sent for sanction of the competent authority seeking sanction of the aforesaid revised scheme and further seeking a direction to implement the scheme by raising the height of the crest of the weir, the writ petition has been filed.

On notice being issued, respondents have filed a detailed counter affidavit which goes to show that initially the scheme was approved for irrigation of 900 hectares at an original cost of Rs.620.40 lacs vide Annexure A. it was thereafter revised to 810.13 lacs. The work was continuing and on the representation of the residents of the area, the matter was taken up by the Department.



For considering increasing the height of the crest, feasible study was undertaken by the Central Design Organization and a report was submitted. Based on the expert opinion, a revised estimate was also formulated and it was found that for revising the scheme, an additional amount of Rs.1186.5137 lacs is required. The matter was examined by the Government. Based on the revised scheme and technical feasibility it was found that already two other irrigation schemes are existing on the down side of the river in question and by increasing the height, no fruitful purpose would be served and, therefore, the scheme in its original design was completed in June, 2016 and now 750 hectares of land is being irrigated.

Accordingly, from the counter affidavit filed by the respondents it is clear that after evaluating the matter, the proposal for revising the scheme increasing, the height of the crest was examined and therefore given up by the State Government and that being the position, this Court now in a public interest litigation, exercising its extraordinary jurisdiction, cannot issue any mandamus in the matter. The question of implementing the scheme in the revised form is an administrative action based on policy decision involving financial consideration and if after taking note of various factors, the competent authority of the State Government feels that it



is not feasible to modify the scheme, a mandamus cannot be issued for the said purpose.

Accordingly, finding no ground to make indulgence into the matter, the application is dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.7.2017
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