

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.26 of 2016

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Samina Khatoon, wife of Md. Ebrahim Mian, Resident of Village
Pacharhata, P.S. G.B. Nagar (Tarwara), Anchal Barharia, District- Siwan
..... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources
Department, Government of Bihar, Patna
2. The Chairman, Water Board, Government of Bihar, Patna
3. The Member Secretary, Water Board, Government of Bihar, Patna
4. The Chief Engineer, Water Resources Department, Siwan
5. The Assistant Engineer, Water Resources Department, Siwan
6. The Executive Engineer, Saran Canal Division, Siwan
7. The Bihar State Pollution Control Board, Bihar at Patna

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Naresh Prasad, Advocate
For the State : Mr. Khurshid Alam, AAG-12
Mr. Fakhruddin Ali Ahmed, AC to AAG-12
For BSPC Board : Mr. Shivendra Kishore, Sr. Advocate
Smt. Binita Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

7 11-07-2017 This is public interest litigation and the problem is

drainages of water and pollution caused in Gandaki River.

A counter affidavit has been filed by the State
Government and in paragraph Nos. 12, 13 and 14 of which
following assertions have been made.

“12. That the Department is aware of the fact that
there is need of draining out the escaped water
properly through Gandaki River. Therefore, a
preliminary study is under progress. The survey was
done up to some length i.e., up to 58 KM



downstream of the confluence point of the escape channel and Gandki River. It was found that there are many permanent structures like small bridges across the River Gandki which has been constructed by departments other than Water Resources Department. Still level of these bridges were found to be above the bed level of Gandki River causing obstruction to free flow of escaped water as well as river water. If there is any pollution due to siltation, it would not have taken place if the sill levels of these structures in the downstream were below the bed of the Gandki River. Thus, the survey team came to conclusion that unless the level of sills of those structures is lowered down, the escaped water and river water cannot be drained out.

13. That, the survey work could not be carried out during rainy season and only 58 KM of survey could be done and it was found that level of sills are high at some places resulting in obstruction of flow of river water and causing water logging. A copy of survey report mentioning the location and sill levels of bridges in 58 KM are attached herewith marked as Annexure-B to this counter affidavit.

14. That it is stated that the survey work will be started again when the water in depressed portions near sill of the bridges dries and after completion of survey, follow up action will be taken up accordingly to solve the problem of the area in question.”



Keeping in view the aforesaid, for the present, no further action is required to be taken. Immediately after the Monsoon is over, the respondents are directed to proceed with the survey as per the requirement and to rectify the defects noticed and ensure that the entire defects are removed and corrected within a period of six months from the date of conclusion of the rainy season.

Liberty shall ever be available to the State Government to seek extension of time for undertaking the work after conclusion of the rainy season and to conclude the work within a reasonable period.

The report submitted by the Pollution Control Board also supports the assertions made by the State Government in the counter affidavit.

(Rajendra Menon, CJ)

S.Pandey/-

(Anil Kumar Upadhyay, J)

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