

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19313 of 2015

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Mahesh Paswan, S/o-Late Janak Paswan, R/o village - Manpur Jauwa, P.S. -
Runnisaaidpur, District - Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. District Magistrate, District - Sitamarhi.
3. The Land Acquisition Officer, Gandak Project, Muzaffarpur, District -
Muzaffarpur.
4. The Executive Engineer, Bagmati Project, Baghmata, Division - Runnisaaidpur,
District - Sitamarhi.
5. The Block Development Officer, Runnisaaidpur, District - Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinesh Jha, Advocate

For the Respondent/s : Mr. Anjani Kumar, AAG 6

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 28-06-2018

This writ application has been preferred by way of Public Interest Litigation for a direction to the respondent authorities to rehabilitate the petitioner and others 170 families like the petitioner who are said to have been uprooted from their houses due to expansion of Baghmata Bandh constructed under the scheme of Baghmata Project in the year 1985.

The statement made in the writ application indicate that the Baghmata river project was taken up in the year 1985, 24 families who were displaced have been rehabilitated by the Government. The



claim of the petitioner is that he along with other 170 families are not being rehabilitated even though they have made representations to the government as contained in Annexure-4 to this writ application.

A counter affidavit has been filed on behalf of the Executive Engineer Baghmata Division. It is stated in his response to the writ application that the work of extension of embankment was completed in the year 1985 itself, whereas, the petitioner is moving this court after a lapse of 31 years and for that reason alone, the writ application is fit to be dismissed. It is further stated in his affidavit that in October 2016, the work of rehabilitation has been entrusted to the Executive Engineer, Baghmata Division, under Water Resource Department and now, the process of acquisition of land has been started.

By filing a supplementary counter affidavit, the Executive Engineer has further brought on record that during pendency of the writ application, the Assistant Engineer of the department made an enquiry in the claim of the persons who made a representation/complaint before Collector, Sitamarhi but not a single person was able to prove his case with regard to displacement due to construction/extension of Baghmata Dam in the year 1985. The present petitioner is one of the persons whose name finds place in the enquiry report at serial no. 38, the petitioner was unable to support his



claim of ownership of land. It is stated that those 24 persons who were able to prove the claim have already been rehabilitated.

Having heard learned counsel for the petitioner and learned counsel representing the State as also after going through the pleadings available on the record, we find that in the nature of disputes which have been raised by the Executive Engineer in his supplementary counter affidavit, this court in this Public Interest Litigation cannot dwell upon the question of title and possession of the petitioner and other 170 families as claimed by the petitioner over the piece of land in lieu of which they are seeking rehabilitation.

Even otherwise, the enquiry report which is placed on record in Annexure-‘A’ to the supplementary counter affidavit has not been challenged by the petitioner. Such challenge may be made by the petitioner and other similarly situated persons in a appropriate proceeding before the authorities concerned or the competent court of law where the evidences may be adduced by the every person who stake his claim.

We are of the considered opinion that the petitioner and similarly situated persons may approach the competent court of law to establish his/their claims. In case, the petitioner or persons similarly situated are not in a position to contest their case due to financial constraints, they may approach the Legal Services Authority for



assistance which may be provided to them in accordance with law.

We do not see any reason to issue a mandamus in the nature of the controversy raised by the respondents.

The writ application as framed has no merit, it is dismissed accordingly.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Sanjeev/Mukesh

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.07.2018
Transmission Date	N/A

