

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9941 of 2017

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1. Ashok Kumar Jha, Son of Ramnath Jha, Resident of Village+P.O.- Amaithi, P.S.- Bahera Deoram Amethi, District- Darbhanga.

..... Petitioner/s
Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Energy Department, Government of Bihar, Patna.
3. Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
4. The Principal Secretary, Finance Department, Government of Bihar, Patna.
5. The Secretary, Human Resource Department, Government of Bihar, Patna.
6. The Secretary, Chief Minister Secretariat, Government of Bihar, Patna.
7. The Secretary, Bihar Legislative Assembly, Bihar, Patna.
8. The Additional Secretary, Bihar Legislative Assembly, Bihar, Patna.
9. The Chairman, Bihar Electricity Board, Bidhut Bhawan, Bailey Road, Patna.
10. The Director, Bihar Electricity Board, Bidhut Bhawan, Bailey Road, Patna.
11. The Managing Director, Energy Department, Government of Bihar, Patna.
12. The Managing Director, Bihar State Power Holding Company Limited, Bihar Renewable Energy Development Agency (BREDA), Bihar, Patna. The Chairman/MD, Bihar State Power Transmission Company Limited, Bidhut Bhawan, Bailey Road, Patna.
13. The Chairman/MD, Bihar State Power Holding Distribution Company, Bidhut Bhawan, Patna.
14. The District Magistrate, Darbhanga.
15. The Assistant Executive Engineer, Power Sub-Division, Kasheshwar Asthan, District- District Darbhanga.
16. The Land Acquisition Officer, Darbhanga.
17. The S.D.O., Benipur, District- Darbhanga.
18. The DCLR, Benipur, District Darbhanga.
19. The Sub Registrar, Bahera Registry Office, District Darbhanga.
20. The Circle Officer, Benipur Block, Darbhanga.

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar, Advocate
For the Respondent-State: Mr. Suresh Kumar, A.C. to
GP-1

For the Respondent

Nos. 9 to 13 & 15 : Dr. Kishlay, Advocate

For the Respondent

Nos. 7 & 8 : Mr. B.N. Jha, Advocate

: Mr. A.K. Shukla, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 23-08-2018

1. By way of this present petition in the nature of public interest litigation, the petitioner has prayed for following reliefs:

"(i) For a direction upon the respondents authorities to ensure the start and completion of construction of 132/33 KVA capacity Power Grid Sub-Station at its original site i.e. at village Madhopur and Habibhwar, under Benipur Sub-Division, District Dharbhanga, for which a tender process has already completed.

(ii) For a further direction to the respondents to not to change the original site of construction of 132/33 KVA Capacity Grid Sub-Station i.e. village Madhopur and Habibhwar, under Benipur Sub-Division, District Darbhanga to Village Alipur, as the change of site is being made on the basis of objection of Finance Department, Government of Bihar, Patna in the pretext of saving Rs. 2,23,63,200/- which may be utilized for acquisition of 4.9980 Acre Land without even considering that the newly proposed site would burden the state of Bihar by Rs. 12.00 Crore i.e. about more 10 Crore extra public



money.”

2. It is the case on behalf of the petitioner that if 132/33 KVA capacity Grid Sub-Station is constructed at the present place where the same is being set up, the same is likely to have more financial burden. It is also the case on behalf of the petitioner that, therefore, the petitioner and others made representation before the appropriate authority for change of location, which would have a lesser financial implication, however, the same has been turned down and construction of the Sub-Station is carried on, which shall not be in the larger public interest.

3. In response to the notice issued by this Court, the respondents have appeared through their counsel and a detailed counter affidavit is filed on behalf of respondent Nos. 9 to 13 justifying the construction of the Power Grid Sub- Station at the present location. It is submitted that the land suggested by the petitioner and others available at Madhopur and Habibhauar is fully private land and also litigation is going on which is pending in the court of S.D.M., Benipur. On the other hand, the land available at Alinagar is Government land of 4.60 acres, which is found to be cheaper than the land of Madhopur and Habibhauar and that too is also found technically feasible for construction. The construction is being carried out at present place that of any other which is a



Government land.

3.1. It is the case on behalf of the respondents that the present petition is not a public interest litigation but seems to be a private interest litigation with respect to those who are having the lands at Madhopur and Habibhauar as if those lands are acquired, they will get huge compensation/price for the same.

3.2. The allegation of the petitioner regarding burdening the State of Bihar by twelve (12) Crores is also specifically denied.

3.3. It is further submitted that even the land in question has been selected for Sub-Station after having obtained the technical report from the expert.

3.4. It is further submitted that in fact, there will be less financial burden if the Sub- Station is constructed at Alinagar as the cost of the land at Madhopur and Habibhauar is Rs. 2.23 crores whereas the cost of Government land at Alinagar is Rs. 1.08 crores, hence there will be saving of public money.

4. We have heard the learned counsels appearing on behalf of the respective parties at length.

4.1. At the outset, it is required to be noted that the present petition in the nature of public interest litigation is preferred challenging the action of the respondents in putting the construction of 132/33 KVA



capacity Power Grid Sub-Station at Alinagar alleging *inter alia* that instead of putting construction of said Sub-Station at Madhopur and Habibhauar if the Sub-Station is being constructed at Alinagar, the same would have more financial implications. No *mala fides* are alleged.

4.2. However, considering the counter filed on behalf of respondent Nos. 9 to 13, which is a detailed counter affidavit, it appears that the land at Alinagar has been selected after obtaining technical report from the experts and also after considering the technical feasibility of the land in question. A detailed counter affidavit has been filed explaining why the Sub-Station at Madhopur and Habibhauar is not constructed and/or being set up. The relevant paragraphs of the counter are 8 to 21, which are self explanatory.

4.3. Considering the detailed counter affidavit, more particularly, the paragraph Nos. 8 to 21, We are of the opinion that the Sub-Station is being constructed at Alinagar and there are valid reasons for not constructing the Sub-Station at Madhopur and Habibhauar. As such, we are of the opinion that the petitioner is not entitled to any relief as sought in the present petition in the nature of public interest litigation. It appears that under the guise of present public interest, the present petition has been filed at the instance of those land owners, who are



having the lands at Madhopur and Habibhwar and if the land is acquired in that case, they may get very huge compensation. On the other hand, the Government land at Alinagar has been used for construction of the Sub-Station which would not have much higher financial implication/burden.

5. At the outset, it is required to be noted that, as such, by now the construction of Sub-Station at Alinagar has already been started long back and, therefore, it would not be appropriate at this stage to stop and watch in putting further construction of the Sub-Station as by now the Government has already spent a huge amount.

6. Considering the facts and circumstances of the case, the present petition deserves to be dismissed and, is, accordingly, dismissed. Notice is discharged. No cost.

(Mukesh R. Shah, CJ)

(Dr. Ravi Ranjan, J)

Brajesh/-

AFR/NAFR	
CAV DATE	
Uploading Date	28.08.2018
Transmission Date	

