

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17447 of 2019

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Ram Bharosa Singh s/o Late Ramkali Singh Vill.- Gosai Math, Bedahna, P.s.-
Harnaut, Distt.- Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar through the Special Secretary, Rural Work Department,
Vishwabaraiya Bhawan, Baily Road, Patna-800001
2. Collector of the District Nalanda
3. Sub Divisional Officer Bihar Sharif, Nalanda
4. Executive Engineer work Division, Rural Work Department, Harnaut,
Nalanda
5. Circle Officer Harnaut, Nalanda

... .. Respondent/s

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(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Appearance :

For the Petitioner/s : Mr.Ashok Kumar

For the Respondent/s : Mr.Pushkar Narain Shahi (Aag6)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 22-12-2020

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

"(i) CERTIORARY: To quash the letter dated 28.01.2019, issued under the signature of the respondent Special Secretary, Rural Work Department, Government of Bihar bearing letter no. Mu. A-4(Mu.) Naward-03-220/2016, 384, by which work for construction of Road which length 1.100 K.M. from N.H.-30A of Bedhana Bridge to village Bedhana (North Tola) has been sanctioned and on the basis of the said letter construction work of Road has



been started on the small canal (Paine), situated at Mauza Bedhana, P.S. Harnaut, District Nalanda, bearing khata No. 89, Plot No. 416 and Khata No. 37, Plot No. 719 which is Gairmazarua Aam land, nature paine (small canal) in Cadastral Khatian;

(ii) MANDAMUS: (a) commanding and directing the respondents authority not to encroach or remove the encroachment if any, from the small canal (Paine) emerging from the river Muhane and flow towards the village Gosaimath (Bedhana) and onwards and/or not to fill up the same by putting soil, sand and other materials there under;

(b) directing the respondent authority not to construct road on the paine (small canal) as the said paine (small canal) is yet necessary/essential for cultivation of crops/grains and animals and the same is only source of water for cultivation of more than thousand acres agricultural land of village Gosaimath (Bedhana), P.S. Harnaut, District-Nalanda and other concerned villages/locality, bearing Thana no. 200, Mauza Gosaimath (Bedhana) Mauza/Khata Nos. 89 and 37, plot nos. 416 and 719;

(C) be further pleased to direct the respondent authority to stop the work of the road in any manner on the above said paine (small canal) in view of the judgment passed by the Hon'ble Supreme Court in the case of Jagpal Singh and others Versus State of Punjab and others; reported in 2011(2) B.L.J. (SC)-6."

After the matter was heard for some time, learned counsel for the petitioner submits that petitioner shall be content if a direction is issued to the concerned respondents to consider and decide the representation which the petitioner shall be filing



for redressal of the grievance(s).

State has no objection to the same.

As such, petition is disposed of in the following terms:

The petitioner shall file a representation before the authority concerned within a period of eight weeks.

The concerned respondent is directed to consider and decide such representation expeditiously and preferably within a period of two months from the date of its filing along with a copy of this order.

The proceedings, during the time of current Pandemic-Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

Needless to add, while considering such representation, principles of natural justice shall be followed and due



opportunity of hearing be afforded to the parties.

Liberty reserved to the petitioner to approach the Court, if the need so arises subsequently on the same and subsequent cause of action.

We have not expressed any opinion on merits.

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rrajiv-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

