

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14620 of 2018

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Amit Kumar, son of Dhaneshwar Prasad, resident of Village- Belghoghar,
P.O.- Binda, P.S.- Barachatty, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Work Department, 5th Floor Vishveshwarya Bhawan, Bailey Road, Patna.
2. The Engineer-in- Chief, Rural Work Department, 5th Floor Vishveshwarya Bhawan, Bailey Road, Patna.
3. The Executive Engineer, Rural Work Department, Sherghati Division, Gaya.
4. District Magistrate cum Collector, Gaya.
5. The Deputy Development Commissioner, DDC, Gaya.
6. The SDO, Sherghati, Gaya.
7. The Circle Officer, Barachatti, Gaya.
8. The Circle Officer, Dobhi, Gaya.
9. The Mukhiya, Gram Panchayat Raj, Binda Panchayat, Block- Barachatti, District- Gaya.
10. The Mukhiya, Gram Panchayat Raj, Bajaura Panchayat, Block- Dobhi, District- Gaya.
11. The Manager, M/s Ajad Construction, office situated at Sundar Kumhari, P.O.- Kurmawa, District- Gay

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Sharma, Advocate.

For the Respondent/s : Mr.Pushkar Narain Shahi – AAG 6

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-12-2020

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

“A. For the direction upon the concern respondent authority to stop and remove the illegal, indiscriminate construction of road from Selari Bind to Pipradih situated under Panchayat Raj Binda,



Block- Barachatti district Gaya, the aforesaid road built and construct upon a water channel (PYNE) which is used by the farmers of concern locality for the purpose irrigation of crops since long immemorial time, but Rural work Department, Govt. of Bihar who Work under the Ministry of rural Development, Govt. of India under scheme of PMGSY (Pradhan Mantri Gram Sadak Yojna), allotted a tender to respondent no. 11 vide Contract/Agreement No. 86/SBD/2017-18 for the the Construction of aforesaid road without considering the interest of large number of farmers of concern locality Whose irrigation of crops completely depends upon the said water channel.

B. For the direction upon the concern respondent authority to abstain from the act of merging the area of water channel (PYNE) into aforesaid road construction and further direct to appoint Anchal Amin for measurement of whole area of water channel (PYNE) which emerges from river Gulshakri and passes through villages like Serwan, Belghoghar, Dahiyar and Salempur etc.

C. For direction to stay or maintaining status quo of the construction of aforesaid road built upon the water channel (PYNE) till the disposal of the present writ application.

D And for any other reliefs/reliefs for which the petitioners are found to be entitled under the provision of law involved in the present case.”

On 20.02.2020, we have passed the following order:-

“The SDO Sherghati, Gaya (respondent no.6)



shall after visiting the Spot, and ascertaining the factual position with regard to alleged encroachment and the construction shall file affidavit within eight weeks. It shall be open to the authorities to make necessary correction in the revenue records, obviously has to be in accordance with law, also the officer shall ensure all the encroachments over public water body be removed. Insofar as road which stands constructed under the Pradhan Mantri Gram Sadak Yojna is concerned, the authorities shall take appropriate action for correction of the revenue records. He shall also ensure that the water over the water channel flows freely and unobstructively.

List on 04.05.2020.”

Respondent State has filed its response indicting that 17 persons are using the land for an illegal purpose and drawing personal benefit. Also the road under the Pradhan Mantri Gram Sadak Yojana requires to be constructed in public interest.

Shri P.N.Shahi states that with the construction of the road, the water channel is not going to be obstructed in any manner and proper pipe/culvert channel would be constructed. Shri Shahi states that the revenue records would also be got corrected so as to ensure that in the record, the land over which the road is to be constructed shall be categorised, which shall be got done within next three months.

Statement accepted and taken on record.



Petition is disposed of with the following direction(s):-

(a) The revenue record be got corrected by the appropriate authority in accordance with law.

(b) All illegal encroachment over the land where the road in question is required to be constructed or water channel created, shall be got removed forthwith.

(c) The road to be constructed under the Pradhan Mantri Gram Sadak Yojana be got completed within the stipulated period of time.

(d) The District Magistrate of Gaya shall be personally responsible for completion of the roads.

The petition stands disposed of in the above terms.

Interlocutory application, if any, also stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	04.12.2020
Transmission Date	

