

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3617 of 2021

Sunil Kumar Son of Late Ram Dayal, Resident of- 14, Emerson Road, Danapur, Cantt. P.O.- Danapur Cantt, P.S.-Danapur, District- Patna (Bihar) 801503 At present General Secretary- Danapur Cantonment Civilians Welfare Society, Regd. No. 695, Danapur Cantt. Patna.

... .. Petitioner/s

Versus

1. Union of India Union of India through the Secretary Ministry of Defence, Government of India, New Delhi
2. Sri Raipal Punia, The GOC, Head Quarter Bihar and Jharkhand Sub-Area, Danapur Cantt. Patna 801503
3. Sri Hemant Parmar, The Adm. Commandant, Head Quarteer Cell. Bihar and Jharkhand, Danapur Cantt. Patna 801503
4. Smt. Lalrinpuii Hrahsel, IDES, The Chief Executive Officer, Cantonment Board, Danapur Cantt. Patna 801503.
5. Sri Hemant Kumar, The Garrison Engineer, MES Danapur Cantt. Patna 801503.
6. The Government of Bihar through Chief Secretary, Main Secretariat Patna 800015.
7. The District Magistrate Patna 800001
8. The S.S.P. Patna 800001
9. The Sub-Divisional Magistrate Danapur 801503.
10. The Charman Bihar State Pollution Control Board, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms.Sugandha Prasad, Advocate Mr. Daya Shankar Prasad, Advocate
For the Respondent/s	:	Mr.Dr.K.N.Singh (ASG) Ms. Parul Prasad, Advocate Mr. Pawan Kumar, AC to AG

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 29-06-2021 Petitioner has prayed for the following relief(s):



“(a) For the issuance of an appropriate writ(s), order(s) and direction(s) including a writ in the nature of certiorari for quashing e-tender notice issued vide CANO.GE/DNR/T- 56 Of 2020-21 issued under File No. 8435/E8 by the res. no. 5 contained in Annex-1 under the guise of nature of work being described for provision of security post and entry gate at Sanik Chowk and passion of certain-revenue and minor work in AGE B(R-11 under GE Danapur Cantt.; estimated cost (Rs. 17.45 Lac approx) is an affront to causing undue hardship to the free movement of the people by and large and the Civilians inhabitants having their residential houses in particular living within the periphery of the Cantonment Zone as well as bound to reciprocate into chilling effect, to the cause of public welfare and the common good with the brazen abdication of the responsibilities by the Concerned respondent authorities proving detrimental to the cause of civil liberties to live with dignity in a democratic secular welfare state requires to be dealt with severely in accordance with law.

Vis-à-vis the whole exercise of the concerned respondent authorities is in breach of Art. 21 of constitution of India and is bound to invite commutation and



social unrest in the society with placement of so called security post and entry gate at Sanik Chowk , may have far and wide repercussion threatening law and order problem be the order of the day, if not arrested forthwith, may lead to far reaching consequences afflicting the cause of civil liberties to live with dignity.

- (b) For the Issuance of in the nature of Rule NISI directing the concerned respondent authorities to remove the barricade with the blockade of the adjacent East of Church Road and West of Church Civil SDO Road, and to open the Eastern Gate of West of Church Field prohibiting complete ban to the Civilian population of the locality, the only ground left to have an Morning and Evening walk being in usage instantly since time immemorial of British Raj be made accessible forthwith.

Vis-à-vis such exercise of the concerned Respondent authorities amounts to brazen violation of fundamental rights to breath fresh air having no regard to their health and safety reeks malafide causing disastrous health hazard; as they have ventured by polluting the ambient air quality with the placement of plastic sheet over the boundary wall of Church Field: have further aggravated the Situation of environmental pollution impeding



deprivation of Sun rays, fresh air; as the health and hygiene of the people had to take precedence over any Such polluting activities, if not arrested forthwith at this juncture may prove fatal having disastrous effect of health and safety to the Civilian population to live with dignity 21).

- (c) For the issuance of writ (s) order(s) direction(s) in the native of creation commanding the Respondent authorities as to why the concerned res. authorities are out to usurp the power of the CEO, Cantonment Board, Danapur Cantt. Contemplated under the provision envisaged Under Section- 256 & 258 of the Cantonment Act 2006 with the closure of the said road, and the Church Field restricting the movement of the Civilian population Without prior permission of the General Officer Commanding in Chief or the Principal Director amounts to defying the rule of law taking undue advantage of the lock down period; having no regard to the health and safety of the people, despite the Government of India announcement made to all the states to relax, the movement of the people with the opening of the Park and the Field meant for the people to breath fresh air requires to be dealt with Severely by reprimanding the concerned Respondent authorities not to



cause further impediment for their movement in the said Church Field with the removal of the blockade of the road hence forth.

- (d) For the issuance of (writs) commanding the res. authorities as to why the Respondent authorities be not directed to obtain no objection certificate from the Chairman of the Bihar State Pollution Control Board, prior to sealing of the Church Field, covering it completely with Plastic Sheets from all round raising its height about 20 feet, is sine qua non whereby and where under, polluting the ambient air quality, aggravating of an environmental pollution as in the said situation, the environmental impact assessment being negated wholly, arbitrarily and capriciously by over reaching authorities of Bihar State Pollution Control Board (Respondent No.10)

Vis-à-vis the health of the people in all fairness had to take precedence Over any such commercial polluting activities (We SC verdict Arjun Gopal Versus Union of India (2017)1 SCC 412).

- (e) For the issuance of commanding the res. authorities as to why in the nature of RULE NISI, be not directed for the enforcement of public duty as against the concerned authorities particularly (Respondent No.2 3 & 5) not to act in breach of the rule and law, framed in this regard,



rather to act in Conformity with the Cantonment Act 2006 as mandated/ envisaged Under Section-256/258 of the said Act.

Vis-à-vis to call for the action taken report (AIR) from the Respondent authorities as to what steps taken on the rogatory complaint dated-24.09.2020 and the legal notice contained in Annexure 2 and 3 respectively.

- (f) To grant such relief or reliefs to which the petitioner may be entitled to under the law and facts of this case as well as the cost of incidentals be awarded to the petitioner.

Learned counsel for the petitioner seeks permission to withdraw the petition for the reason that with the passage of time the same has become infructuous.

Petition is dismissed as withdrawn.

However, liberty reserved to raise the issue before the appropriate authority as and when such occasion arises.

(Sanjay Karol, CJ)

(S. Kumar, J)

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