

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15721 of 2019

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Tarkeshwar Prasad Sahi, Son of Late Rajnath Sahi, Permanent resident of Mohalla- Mahadeva Nai basti, near Moti School, District- Siwan, Pin code- 841226.

... .. Petitioner/s

Versus

1. The State of Bihar through Principle Secretary, Department of Urban Development, Govt. of Bihar, Patna.
2. The District Magistrate District- Siwan, Bihar- 841226.
3. The Executive Officer, Siwan Municipality, Siwan, Bihar- 841226.
4. The Chairman, Siwan Municipality, District -Siwan, Bihar- 841226.
5. The Chairman, Bihar State Pollution Control Board, Parivesh Bhawan, Mall Road, Patliputra Industrial Area, Digha, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar Singh, Advocate
For the State	:	Mr. Subhash Prasad Singh, Advocate
For respondent no. 3	:	Mr. Ravi Bhushan Verma, Advocate
For respondent no. 5	:	Ms. Binita Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-03-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):

- “(i) For issuance an appropriate writ, order or direction directing the respondents to remove the construction, which is going on the Canal/Naala passing through the east of Moti School to main road of Mahadeva road in Ward No. 17/15 and which falls in Daha(Gandak) river.
- (ii) For issuance an appropriate writ,



order or direction directing the respondents to restore the original shape and size of the said Canal/Naala, which was originally happens to be 20ft to 50ft wide so that in this rainy season, the resident of ward no. 17/15 could not suffer from water logging in the residential area and their houses causing several health problems like Dengue, Malaria etc.

(iii) For grant of any other relief or reliefs to which the residents of ward no. 17/15 of Siwan Municipality, District- Siwan are legally entitle.”

Having heard learned counsel for the petitioner as also perused the record, more so, affidavit filed by respondent no. 3, which remains uncontroverted we find the present petition to be an abuse of process of law, with the petitioner having concealed the factum of having carried out encroachments over the public land and constructed a boundary wall, toilet, parking for vehicles and storage of sand, grit/chips, bricks etc. All this he has done without any authority.

On his misrepresentation, Court passed an order dated 26th of August, 2019 in his favour, stopping construction of the public work, in question, which in fact was to be carried out in public interest.

Also, the present petition stands malafidely filed in the name of Public Interest Litigation, challenging the action of the respondent in covering the Nala, necessarily required for



development of the area in larger public interest.

As such, we dismiss the present petition with the following directions:-

(a) Petitioner shall pay a cost of Rs. 30,000/- to be deposited in the Nagar Panchayat, which shall be used for public purpose.

(b) Unauthorized construction/encroachment made by the petitioner and others over public land, as referred to in para 6 of the affidavit filed by Respondent No. 3, shall be removed immediately.

(c) The work sought to be executed in public interest shall be completed at the earliest, preferably within a period of six months from today.

The present petition stands disposed of in the aforesaid terms.

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

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

