

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15006 of 2019

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Ghanshyam Singh @ Ghanshyam Prasad Singh Son of Late Krishna Singh,
Resident of Village- Malkauli, Ward No.1, P.S. Bagaha, District- West
Champanan.

... .. Petitioner

Versus

1. Union of India through its Principal Secretary, Road Construction Department, New Delhi.
2. The State of Bihar, Through Principal Secretary, Road Construction Department, Vishwsharaiya Bhawan, Baily Road, Patna.
3. The Engineer in Chief, National Highways Division, Vishawsharaiya Bhawan Bailey Road, Patna.
4. The Chief Engineer, Road Construction Division, North Wingh Vishawsharaiya Bhawan Bailey Road Patna, Bihar, Patna.
5. The Superintending Engineer, National Highways, N.H. Circle Muzaffarpur.
6. the Executive Engineer, N.H. Division, Motihari.
7. The Assistant Engineer, N.H. Division, Motihari.
8. The Junior Engineer, N.H. Division Motihari.
9. The District Magistrate, Bettiah, West Champanan.
10. The S.D.M., Bagaha, West Champanan.
11. The Circle Officer, Bagaha-2, West Champanan.
12. The District Land Acquisition Officer, Bettiah, West Champanan.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Bakshi S.R.P. Sinha (Sr. Advocate)
	:	Mr.Suresh Prasad Sharma
For the Respondent/s	:	Mr.S.D.Yadav (AAG 9)
	:	Mr.Anshay Bahadur Mathur (CGC)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 21-08-2021

This matter has been taken up for hearing online because
of COVID-19 pandemic restrictions.

2. Heard Mr. Bakshi S.R.P. Sinha, learned Senior
counsel assisted by Mr. Suresh Prasad Sharma, learned counsel for



the petitioner, Mr. S.D. Yadav, learned AAG-9 for the State of Bihar and Mr. Anshay Bahadur Mathur, learned Central Government counsel for the National Highway Authority of India.

3. The petitioner, in the present writ application, is seeking direction commanding the respondents to construct a road over bridge on NH-28B, which is being constructed over Mangalpur 94 Km of NH-28B to connect a rail over bridge. He is seeking quashing of the notification served upon him to acquire his land for the purpose of said over bridge. The petitioner is also seeking a direction to the respondents to construct the over bridge through its original route and not by shifting it towards east, which includes the petitioner's land in question.

4. It is an undisputed fact that the petitioner is landholder of land appertaining to Khata No. 23 Khesra No. 99, Khata No. 32 Khesra No. 108, Khata No. 486 Khesra No. 865, Khata No. 486 Khesra No. 866 and Khata No. 473 Khesra No. 866 situate at village Malkauli, Ward No. 01, Thana No. 143 in the District of West Champaran. This is also not in dispute that the petitioner's land is under acquisition in accordance with the provisions under the National Highway Act, 1956 in respect of which a notification was issued on 31.01.2019 in official gazette. The petitioner has brought on record three notices issued by the



competent authority-cum-District Land Acquisition Officer enabling him to raise his objection, if any, against proposed acquisition by appearing himself or through his agent/advocate on 17.05.2019 at 11.30 a.m.. Pursuant to the said notices, the petitioner did file his objection. It appears that subsequently, the date for hearing of objection was adjourned to 31.07.2019, as requested by the petitioner.

5. It is noteworthy that in the counter affidavit filed on behalf of respondents no. 9 to 12, it has been stated *inter alia* that the petitioner's objection has been considered and rejected by an order dated 05.03.2021 communicated to the petitioner through letter no. 105 dated 05.03.2021. The order dated 05.03.2021 has been brought on record by way of Annexure-F to the said counter affidavit filed on behalf of respondents no. 9 to 12.

6. Mr. Bakshi S.R.P. Sinha, learned Senior counsel appearing on behalf of the petitioner has placed heavy reliance on the provision under Section 3C of the Act to contend that the said provision obligates the competent authority to give an objector, an opportunity of personal hearing, either in person or by a legal practitioner. He has submitted that the petitioner was not given any opportunity of hearing and without complying the said mandatory requirement, the impugned order on the petitioner's objection has



been passed, which is manifestly illegal, requiring this Court's interference.

7. *Per contra*, Mr. S.D. Yadav, learned AAG-9 appearing for the State has submitted that Annexure-3 to the writ application clearly indicates that the petitioner was given an opportunity of personal hearing by fixing date and time for such hearing. He has further argued that on the petitioner's request, the hearing was adjourned to 31.07.2019, as is evident from letter no. 1319 dated 12.07.2019, which has been brought on record by way of Annexure-3 to the writ application. He has accordingly submitted that there is no violation of any statutory provision in rejecting the petitioner's objection.

8. I have carefully perused the pleadings on record. I do not find any merit in the writ petition apropos the plea that the petitioner was not given any opportunity of hearing either in person or through his representative. The notice dated 12.07.2019 indicates that date and time of hearing was fixed by the competent authority. On the petitioner's request, the hearing was adjourned to a subsequent date.

9. Further, the National Highways Act, 1956 (Act 48 of 1956) has been enacted to provide for declaration of certain Highways to be National Highways and for matters connected



therewith. Section 3A of the Act confers upon the Central Government, power to declare its intention to acquire any land, in case, it is satisfied that for public purpose such land is required for building, maintenance, management or operation of a National Highway or part thereof by notification in official gazette. The procedure for acquiring such land, in exercise of power under Section 3A of the Act has been clearly prescribed, which requires publication of notification under Sub-Section 1 of Section 3A of the Act, giving a brief description of the land. Sub-Section 3 of 3A of the Act requires the competent authority to cause the substance of the notification to be published in two local newspapers, one of which should be in a vernacular language. There is no assertion in the writ petition that these two statutory requirements were not fulfilled by the Central Government. Section 3C allows any person interested in the land to raise objection to use of the land for the purpose mentioned in Sub-Section 1 of Section 3A. Sub-Section 2 of Section 3C of the Act states that every objection under Sub-Section 1 shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner. The competent authority thereafter may either allow or disallow the objection as it thinks necessary, after



hearing all objections and making such further enquiry, as may be required, it states. Sub-Section 3 of Section 3C of the Act states that any order made by the competent authority under Sub-Section 2 of Section 3C shall be final.

10. On perusal of the notice, which was issued to the petitioner subsequent to issuance of notification in compliance of Sub-Section 1 of Section 3A, it is evident that a date of hearing was fixed. The documents further indicate that on the petitioner's request, the date of hearing was adjourned to a subsequent date. In the absence of any specific pleading that the petitioner was not heard despite the dates and time having been fixed for the said purpose, the Court need not go into the enquiry, as to whether the petitioner was in fact given such opportunity or not.

11. For the reasons noted above, I do not find any merit in this application.

12. This application is accordingly dismissed.

13. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

AKASH/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.08.2021
Transmission Date	N/A

