

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.2391 of 2022**

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Amarnath Goenka, Son of Chhedilal Goenka, resident of Mohalla - M.P.  
Dwedi Road, Near Gaushala, P.S. - Kotwali, District - Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The District Magistrate, Bhagalpur.
3. The Sub Divisional Magistrate, Bhagalpur.
4. The Administrator Municipal Corporation, Bhagalpur.
5. The Circle Officer, Jagdishpur, Bhagalpur.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Dhananjay Kumar Pandey, Advocate  
Ms. Shilpi Keshri, Advocate

For the Respondent/s : Mr. Subhash Prasad Singh, G.A. 3

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**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**and**  
**HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 15-12-2022**

The instant petition pertains to the developmental activities carried out within the precincts of the park commonly termed as Sandy's Compound within the Municipal limits of Bhagalpur.

Vide order dated 12.04.2005 passed in CWJC No.5822 of 2004 titled as **Jai Prakash Uddyan Sah Sandy's Compound Vikash Samiti v. The State of Bihar & Ors.** (Page-18), the Court *inter alia* directed that no construction activity be carried



out within precincts of the park. The effect of this order was diluted vide order dated 26.03.2012 passed in CWJC No.9377 of 2011 titled as **Ram Krishna Ashram v. The State of Bihar & Ors.** (page-31) whereby the State was allowed to raise construction, necessitated out of public purpose and public interest.

Still further, the order passed in **Jai Prakash Uddyan Sah Sandy's Compound Vikash Samiti** (supra) was modified vide order dated 25.04.2018 passed in M.J.C. No. 237 of 2017, titled as **The State of Bihar represented through the District Magistrate, Bhagalpur v. Jai Prakash Uddyan Sah Sandy's Compound Vikas Samiti** with the respondents allowed to carry out the developmental activity necessitated out of public purpose.

Instant petitioner Sri Amarnath Goenka had filed a petition (CWJC No.16518 of 2021 titled as **Amarnath Goenka v. The Additional Collector, Bhagalpur & Ors.**) highlighting the alleged breach of the order, which petition was disposed of vide order dated 20.09.2021 (Page-47). Pursuant thereto, he represented and inaction on the part of the authorities prompted him to file the instant petition being CWJC No.2391 of 2022 titled as **Amarnath Goenka v. The State of Bihar & Ors.**



During the course of hearing, respondents filed an affidavit clarifying the developmental work being carried out in public interest only in terms of and under the Mission Statement and Guidelines for Smart Cities issued by Ministry of Urban Development, Government of India through an especially incorporated Company named as “Bhagalpur Smart City Limited. The Special Service Vehicle in terms of and under the Centrally sponsored Scheme, with the prior approval of the competent authority in terms of Mukhya Mantri Nagar Vikash Yojna intended to utilize Rs.3,71,75,300/- for development of the city and also for up-gradation of Children Park; installation of new equipment, up-gradation of Gym & Boxing Club, reconstruction of Stadium premises, repairing of boundary wall and other works for public utility, including sports complex and in general upgrading the facility of drinking water, preservation of existing structure, restoration and beautification of the area within the precincts of Sandy’s Compound.

Sri Yogesh Kumar Sagar, Commissioner of Bhagalpur Municipal Corporation who is also the Managing Director-cum-CEO Bhagalpur Smart City Ltd., has filed a supplementary counter affidavit dated 13.12.2022 not only tendering unqualified and unconditional apology, but also placing on



record the entire activity being carried out at the Sandy's Compound.

The Mission Statement and Guidelines for Smart Cities was issued by the Ministry of Urban Development, Government of India sometime in June, 2015. For implementing the scheme, the Government of Bihar, vide communication dated 27.09.2018 (page-29 of the supplementary counter affidavit dated 13.12.2022 filed on behalf of the Managing Director cum CEO Bhagalpur Smart City Ltd./Administrator/Municipal Commissioner of Bhagalpur Municipal Corporation (Respondent No. 4)) constituted a committee comprising of public representatives, private officials, and eminence of the city. The scope of the Committee is to take a policy decision. Through the Special Service Vehicle, i.e. the Company, the Government is executing the works of the development of the City and in particular upgrading the facilities within the Sandy's compound. The deponent has, *inter alia*, pleaded as under:-

“14. That the authorities and other members present in the meeting held on 04.07.2020 bonafidely considered the development of Sandy's compound and requirement of citizens and came to decide for development/construction of Station Club, Gym Building, Sports Complex, beautification of court, swimming pool, walkway, cafeteria, kids play area, open air theatre, toilet block, landscaping, boundary wall, lighting, pathway,



rain water harvesting (Annexure-A/9 to the counter affidavit of Respondent No.-4)

15. That Amarnath Goenka filed CWJC No.2391 of 2022, i.e. the instant writ application and the Hon'ble Patna High Court while hearing CWJC No.2391 of 2022 vide its order dated 14.11.2022 found that prima facie the construction activity carried out for and on behalf of the Corporation is in violation of order dated 25.04.2018 passed in MJC No.237 of 2017.

16. That Bhagalpur Smart City Limited was not a party to any of the above cases and all the work relating to development of Sandy's compound are being carried out by the Bhagalpur Smart City Limited and it has already spent around 38 Crores towards development of Sandy's Compound.

17. That old British made boundary walls has been demolished in view of the fact that it was in dilapidated condition and the strength and height were not adequate and as such the same was replaced by iron grill in order to improve visibility from outside which help in security of the area as earlier anti social elements used to enter the campus and indulge in anti social activities.

18. That more than 1500 trees were planted along with more than 4500 hedges. The beautification work was done in order to upgrade the Sandy's Compound to match the standard of other parks of the State.

19. That during the beautification work in a planned manner Anti termite treatment was done to protect the affected trees and it has been started again in order to safeguard the trees.

20. That further in order to improve greenery a committee of three members of Bhagalpur Smart City Limited was constituted vide memo no.929 dated 06.12.2022 for capacity building and a letter was written to Municipal Commissioner, Munger vide letter no.930 dated 06.12.2022 for co-operation in the matter.

21. That the said committee visited



Madanpur Area of Laganiya Village (Kenman Hill Area) and Kharagpur to Ganga National Highway-333 in Munger district on 08/12/2022 and 09/12/2022. Based on the report submitted by the said committee the executing agency vide letter no.945 dated 12/12/2022 has been directed to implement in time bound manner plantation of multiple species including fast growing species such as Ghorkaran, Platform, Goldmohar, Kachnar in order to improve biodiversity and ecosystem.

22. That geo tagging of all plants in Sandy's Compound is being started in which latitude and longitude coordinates of each plant is taken in order to identify the geo-tagged tree and monitor them through satellites.

23. That many components of Sandy's Compound such as Station Club, Nehru Memorial, Open Air Theater, Cleaveland Memorial, Lawn Tennis, Gym, Walkway, Boundary wall were in dilapidated condition. These components have been beautified under Development of Open Space (Sandy's Compound) project of Bhagalpur Smart City Limited."

The Court is satisfied with the activity being carried out by the State/respondents necessitated out of public purpose.

At this stage, Ms. Shilpi Keshri, learned counsel for the petitioner, states that the petitioner would be content if he is also associated in the developmental activities of Sandy's Compound.

Sri Yogesh Kumar Sagar, Commissioner, Bhagalpur Municipal Corporation, states that he has no objection to the same and, in fact, whenever found prudent, petitioner would be



requested to participate in the meeting as a special invitee. Suggestion(s), if any, given by the petitioner would be well considered and accounted for by the Committee as also by the Special Service Vehicle.

In view of the same, the present petition stands disposed of.

Interlocutory Application(s), if any, shall stand disposed of.

**(Sanjay Karol, CJ)**

**( Partha Sarthy, J)**

Sujit/PKP

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