

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3415 of 2020

1. Rohtas Zila Pariwahan Sangh having its Head Office at G.T. Road, Sasaram, Rohtas (Bihar) through its Chairman namely Sri Radha Mohan Singh @ Mohan Singh aged about 84 Years (Male) Son of Ramdev Singh, Resident of Kushahi, P.O.-Sisirita, P.S.-Nokha, Kusahi, District-Rohtas (Bihar Pincode-802217.
2. Sri Radha Mohan Singh @ Mohan Singh Son of Ramdev Singh Resident of Kushahi, P.O.-Sisirita, P.S.-Nokha, Kusahi, District-Rohtas (Bihar) Pincode-802217.
3. Sri Harendra Singh Son of Sri Bhola Singh Resident of Village-Vishrampur, P.S.-Baddi, District-Rohtas.
4. Sriram Bus Services through its Proprietor Sri Arvind Kumar, aged about 50 Years (Male) Son of Sri Vashisth Narayan Singh, Resident of Village-Kekara, P.S.-Bhabhua, District-Bhabhu.
5. Sri Mantu Singh Son of Sri Rambali Singh Resident of Village-Kekara, P.S.-Bhabhua, District-Bhabhua.
6. Niraj Bus Services, through its Proprietor namely Sri Vinod Kumar Singh aged about 62 Years (Male) Son of Late Shyam Narayan Singh Resident of Village-Kekara, P.S.-Bhabhu, District-Bhabhu, Kaimur,
7. Shiva Bus Services, through its Proprietor namely Sri Prabhakar Kumar Singh aged about 50 Years (Male) Son of Sri Munna Singh, Resident of Village and P.S.Kudra, District-Bhabhua, Kaimur,
8. Rajtilak Bus Services, through its Proprietor namely Sri Pramod Singh aged about 65 Years (Male) Son of Late Tilakdhar Singh Resident of Village and P.S.-Sabaar, District-Rohtas.
9. Sri Amarnath Tiwari Son of Late Laxmi Tiwari Resident of Village -Saavan Dehri, P.S.-Kargahar, District-Rohtas.
10. Sri Jainarayan Singh Son of Sri Ram Naresh Singh Resident of Village-Baare, P.S.-Mohaniya, District-Kaimur.
11. Sri Samrat Kumar @ Sonu Singh Son of Late Birendra Singh Resident of Village and P.S.-Jakhi Bigha, Dehri-on-Sone, District-Rohtas.
12. Shakti Roadways, through its Proprietor namely Sri Nitish Kumar, aged about 35 Years (Male) Son of Late Surendra Singh Resident of Village and P.S.-Jakhi Bigha, Dehri-on-Sone, District-Rohtas.
13. Satyachandi Bus Services, through its Proprietor namely Sri Rahul Kumar, aged about 40 Years (Male) Son of Sri Ashok Singh, Resident of Village and P.S.-Jakhi Bigha, Dehri-on-Sone, District-Rohtas.
14. Singh Bus Services, through its Proprietor namely Sri Munna Singh aged about 45 Years (Male) Son of Late Balkeshwar Singh Resident of Village-Taradh, P.S.-Nokha, District-Rohtas.
15. Manish Bus Services, through its Proprietor namely Sri Ajay Kumar Singh aged about 50 Years (Male) Son of Ram Aadhar Singh Resident of Village-Gangauki, P.S.-Dehri-on-Sone, District-Rohtas.



16. Jyoti Bus Services, through its Proprietor namely Sri Anil Singh aged about 35 Years (Male) Son of Late Bilas Singh Resident of Village-Sadokhar, P.S.-Chenari, District-Rohtas.
17. Sri Maharana Bus Services, through its Proprietor namely Sri Maharana Singh aged about 65 Years (Male) Son of Late Yamuna Singh Resident of Pali Road, P.S.-Dehri, District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development department, Government of Bihar, Patna.
3. The Commissioner, Transport Department, Government of Bihar, Patna.
4. The District Magistrate, Rohtas, Sasaram.
5. The Sub-Divisional Officer, Sasaram.
6. The Nagar Parishad, Sasaram through its Executive Officer, Sasaram.
7. The Executive Officer, Nagar Parishad, Sasaram.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Y. V. Giri, Sr. Advocate
		Mr. Sumit Kumar Jha, Advocate
For the Respondent/s	:	Mr. Yogendra Prasad Sinha, AAG-7
		Mr. Shankar Kumar, AC to AAG-7

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

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-09-2022

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-



- i) To issue a writ / order / direction in the nature of certiorari for quashing of the letter dated contained in memo no. 283 dated 14.01.2020 issued under the signature of respondent no. 7 by which the petitioners were asked to run their bus services from the newly constructed bus stand situated at Beda, Sasaram. (Annexure-2 pg. 22).
- ii) To issue a writ/order/ direction in the nature of mandamus directing the respondent authorities to allow the petitioners to continue with the present bus stand which has sufficient land area / facilities to run their bus services till the arrangement of sufficient facilities / land area at the new bus stand is completed.
- iii) To issue a writ/order/ direction in the nature of mandamus directing the respondent authorities to arrange the sufficient land measuring 10 Bighas of land for the purpose of settlement of the bus stand at the newly assigned bus stand situated at Beda, Sasaram or at any other places in Sasaram.



- iv) To issue a writ/ order/ direction in the nature of mandamus prohibiting the respondents from disturbing the petitioners to run their bus services from the old / present bus stop as the newly constructed bus stop is not fit for the running of their bus services and also it is dangerous for the local people.
- v) To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.

After the matter was heard for some time, finding the Bench not to be agreeable with the submissions made by learned counsel for the petitioner, learned counsel for the petitioner, under instructions, states that petitioners shall be content if a direction is issued to the authority concerned to consider and decide the representation which the petitioners shall be filing within a period of four weeks from today for redressal of the grievance(s).

Learned counsel for the respondents states that if such a representation is filed by the petitioners, the authority concerned shall consider and dispose it of expeditiously and preferably within a period of three months from the date of its



filing along with a copy of this order.

Statement accepted and taken on record.

The Hon'ble Supreme Court in *D. N. Jeevaraj Vs.*

Chief Secretary, Government of Karnataka & Ors, (2016) 2

SCC 653, paragraphs 34 to 38 observed as under:-

“34. The learned counsel for the parties addressed us on the question of the bona fides of Nagalaxmi Bai in filing a public interest litigation. We leave this question open and do not express any opinion on the correctness or otherwise of the decision of the High Court in this regard.

35. However, we note that generally speaking, procedural technicalities ought to take a back seat in public interest litigation. This Court held in *Rural Litigation and Entitlement Kendra v. State of U.P.* [*Rural Litigation and Entitlement Kendra v. State of U.P.*, 1989 Supp (1) SCC 504] to this effect as follows: (SCC p. 515, para 16)

“16. The writ petitions before us are not inter parties disputes and have been raised by way of public interest litigation and the controversy before the court is as to whether for social safety and for creating a hazardless environment for the people to live in, mining in the area should be permitted or stopped. We may not be taken to have said that for public interest litigations, procedural laws do not apply. At the same time it has to be remembered that every technicality in the procedural law is not available as a defence when a matter of grave public importance is for consideration before the court.”

36. A considerable amount has been said about public interest litigation in *R&M Trust [R&M Trust v. Koramangala Residents Vigilance Group, (2005) 3 SCC 91]* and it is not necessary for us to dwell any further on this except to say that in issues pertaining to good governance, the courts ought to be somewhat more liberal in entertaining public interest litigation. However, in matters that may not be of moment or a litigation essentially directed against one organisation or individual (such as the present litigation which was directed only against Sadananda



Gowda and later Jeevaraj was impleaded) ought not to be entertained or should be rarely entertained. Other remedies are also available to public spirited litigants and they should be encouraged to avail of such remedies.

37. In such cases, that might not strictly fall in the category of public interest litigation and for which other remedies are available, insofar as the issuance of a writ of mandamus is concerned, this Court held in *Union of India v. S.B. Vohra* [*Union of India v. S.B. Vohra*, (2004) 2 SCC 150: 2004 SCC (L&S) 363] that: (SCC p. 160, paras 12-13)

“12. Mandamus literally means a command. The essence of mandamus in England was that it was a royal command issued by the King's Bench (now Queen's Bench) directing performance of a public legal duty.

13. A writ of mandamus is issued in favour of a person who establishes a legal right in himself. A writ of mandamus is issued against a person who has a legal duty to perform but has failed and/or neglected to do so. Such a legal duty emanates from either in discharge of a public duty or by operation of law. The writ of mandamus is of a most extensive remedial nature. The object of mandamus is to prevent disorder from a failure of justice and is required to be granted in all cases where law has established no specific remedy and whether justice despite demanded has not been granted.”

38. A salutary principle or a well-recognised rule that needs to be kept in mind before issuing a writ of mandamus was stated in *Saraswati Industrial Syndicate Ltd. v. Union of India* [*Saraswati Industrial Syndicate Ltd. v. Union of India*, (1974) 2 SCC 630] in the following words: (SCC pp. 641-42, paras 24-25)

“24. ... The powers of the High Court under Article 226 are not strictly confined to the limits to which proceedings for prerogative writs are subject in English practice. Nevertheless, the well-recognised rule that no writ or order in the nature of a mandamus would issue when there is no failure to perform a mandatory duty applies in this country as well. Even in cases of alleged



breaches of mandatory duties, the salutary general rule, which is subject to certain exceptions, applied by us, as it is in England, when a writ of mandamus is asked for, could be stated as we find it set out in *Halsbury's Laws of England* (3rd Edn.), Vol. 11, p. 106:

‘198. *Demand for performance must precede application.*—As a general rule the order will not be granted unless the party complained of has known what it was he was required to do, so that he had the means of considering whether or not he should comply, and it must be shown by evidence that there was a distinct demand of that which the party seeking the mandamus desires to enforce, and that that demand was met by a refusal.’

25. In the cases before us there was no such demand or refusal. Thus, no ground whatsoever is shown here for the issue of any writ, order, or direction under Article 226 of the Constitution.”

As such, petition stands disposed of on the following terms:-

(a) Petitioners shall approach respondent No.5, namely, the Sub-Divisional Officer, Sasaram within a period of four weeks from today by filing a representation for redressal of the grievance(s);

(b) The authority concerned shall consider and dispose it of expeditiously by a reasoned and speaking order preferably within a period of three months from the date of its filing along with a copy of this order;

(c) The order assigning reasons shall be



communicated to the petitioners;

(d) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(e) Also, opportunity to place on record all relevant materials/documents shall be granted to the parties;

(f) Equally, liberty is reserved to the petitioners to take recourse to such alternative remedies as are otherwise available in accordance with law;

(g) We are hopeful that as and when petitioners take recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(h) Liberty reserved to the petitioners to approach the appropriate forum/Court, should the need so arise subsequently on the same and subsequent cause of action;

(i) We have not expressed any opinion on merits. All issues are left open;



(j) The proceedings be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

Ashwini/Sujit

(S. Kumar, J)

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	29.09.2022
Transmission Date	NA

