

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2705 of 2023

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1. Jay Kumar Son of Ramadhar Yadav, Resident of Village- Bhartipur, P.S.- Pauthu, Block- Rafiganj, District- Aurangabad (Bihar)
 2. Sanjay Kumar Singh Son of Ramrekha Yadav, Resident of Village- Bhartipur, P.S.- Pauthu, Block- Rafiganj, District- Aurangabad (Bihar)
 3. Ambika Yadav Son of Late Laldeo Yadav, Resident of Village- Bhartipur, P.S.- Pauthu, Block- Rafiganj, District- Aurangabad (Bihar)
 4. Shivnandan Yadav Son of Late Motilal Yadav, Resident of Village- Bhartipur, P.S.- Pauthu, Block- Rafiganj, District- Aurangabad (Bihar)
 5. Kapil Yadav Son of Late Bholu Yadav, Resident of Village- Bhartipur, P.S.- Pauthu, Block- Rafiganj, District- Aurangabad (Bihar)
 6. Yogendra Thakur Son of Rameshwar Thakur, Resident of Village- Bhartipur, P.S.- Pauthu, Block- Rafiganj, District- Aurangabad (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Chief Engineer, Water Resources Department, Government of Bihar, Patna.
3. The Chief Engineer, Water Resources Department, Government of Bihar, Aurangabad.
4. The Executive Engineer, Water Resources Department, Aurangabad.
5. The Chief Engineer, Sone High Level Canal Division, Aurangabad.
6. The Executive Engineer, Sone High Level Canal Division, Aurangabad.
7. The Assistant Engineer, High Level Canal Anchal, Aurangabad.
8. The S.D.O., Sonebarsa Naraula Distributry S.H.L.C. Division, Aurangabad.
9. The District Magistrate, Aurangabad.
10. The Superintendent of Police, District- Aurangabad.
11. The Principal Secretary, Rural Work Department Government of Bihar, Patna.
12. The Chief Engineer, Rural Work Department Government of Bihar, Patna.
13. The Executive Engineer, Rural Work Department, Works Division, Daudnagar, District- Aurangabad.
14. The Assistant Engineer, Rural Work Department, Daudnagar, Aurangabad.
15. The Bihar State Rural Road Development Agency, through the Daudnagar, R.W.D. Daudnagar, Aurangabad.
16. Shri Ramnandan Singh the Contractor of New Constructed Road namely Kalen to Sabadal.



... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ranjit Kumar, Advocate
For the Respondent/s : Mr.Anjani Kumar (AAG-4)

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

Date : 18-08-2023

The instant Public Interest Litigation seeks restoration and resumption of the water flow in the water canal from 29.90 R.D. of Sonbarsa Distributory from village Sabadal to Bhartipur and allow the water flow seamlessly and continuously. The prayer made in public interest is said to be for the purpose of irrigation of the fields in the locality. It is also alleged that the soil heaped in connection with a road construction resulted in obstructing the water flow which has left the petitioners, the inhabitants of village Bhartipur and Nehal Bigha high and dry. The Engineer in Chief has granted a no objection vide a Letter No. 478 dated 29.08.2012 for repairing and maintaining the said water canal which is marked as Annexure-1. The said work was selected in the Financial Year 2011-2012 as is evidenced from Annexure-2, Yojna Report. In the year 2020 under the 'Mukhyamantri Gram Sampark Yojna' with little heed to the continuous flow of water, a road from



Kalen to Sabadal was directed to be constructed, which work was granted to the 6th respondent. This road work has caused the obstruction due to the sand being heaped in the water canal. The petitioners have also represented to the District Magistrate, Aurangabad and the S.D.O, Sadar as per Annexures-7 and 7A.

2. A counter affidavit has been filed by Respondent Nos. 1 to 7 in which a different story comes out. It is pointed out that on 24.08.2022, the Sub-Divisional Officer, Aurangabad had directed the deponent and the Executive Engineer, Rural Works Department, Daudnagar to depute an Assistant Engineer to the site of 29.90 R.D. to open the water outlet and resume the irrigation facility to the villagers of Bhartipur. However, at the site, the villagers of Sabadal, Kalen and Kasturipur raised a protest. Apprehending unrest and disturbance of law and order, the water outlet was not opened. It is also stated that the irrigation facility is regularly made available from the Sonbarsa Distributory to the farmers of Bhartipur and Sabadal on mutual consent at different outlets. The Bhartipur outlet at R.D. 4.80 could not be constructed due to problems relating to acquisition of land. It is also submitted that the land acquisition proceedings would be resumed, but even now the farmers of Bhartipur village is facilitated irrigation from the Sonbarsa Distributory at



R.D. 31.90 and 35.60 and often disputes arise between villagers which is the cause for disruption of the water flow.

3. The 13th respondent has filed a counter affidavit dated 04.05.2023 pointing out that prior to filing of the present writ application the petitioner approached this Court by CWJC No. 13508 of 2021 for similar reliefs which was disposed of by order dated 03.08.2021 reserving liberty to the petitioners to approach the authority concerned with a representation. The petitioners had approached the District Magistrate, Aurangabad with a representation dated 17.08.2021 and a meeting of the prominent people of both the villages was convened on 05.08.2022 and a decision was taken to resume the water flow of water canal 29.90 R.D. The said decision has been communicated by the Circle Officer, Rafiganj to all the concerned authorities vide a letter produced as Annexure-A. The Sub-Divisional Officer, Aurangabad by an order under Memo No. 1249 of 24.05.2022 has also deputed Magistrates and police personnel to maintain the law-and-order situation which is produced as Annexure-B. The Executive Engineer, Rural Works Department has also given his consent and his cooperation with the other departments is assured, to ensure free water flow in the canal.



4. Respondent Nos. 1 to 7 through the Executive Engineer, Sone High Level Canal Division, Aurangabad has filed a supplementary counter affidavit wherein it is stated that the construction of Bhartipur Jalwaha has been proposed which would provide seamless irrigation facility to the farmers of Bhartipur village. The administrative approval for construction of the same was sought for and as per Annexure-A, the approval has been granted.

5. Recording the above submissions made in the counter affidavits as an undertaking, the writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Anushka/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	23.08.2023
Transmission Date	

