

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3840 of 2022

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Shashi Kumar Singh, Son of Ramjee Singh, Purvi Gate, H.D. Jain College,
Kanakpuri, Arrah, District- Bhojpur.

... .. Petitioner/s

Versus

1. The Union of India
2. The Secretary, Ministry of Art and Culture, Department, New Delhi.
3. The Archeological Surgery of India, New Delhi.
4. The State of Bihar
5. That Principal Secretary, Ministry of Art, Youth and Culture Department,
Vikash Bhawan, Patna.
6. The District Magistrate, Bhojpur at Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Singh, Advocate Mr. Ajay Kumar Singh, Advocate
For the UOI	:	Dr. K.N. Singh, Additional Solicitor General Mrs. Kanak Verma, CGC
For the State	:	Mr. Sarvesh Kumar Singh, AAG-13 Mr. Tej Pratap Singh, AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 08-09-2023

The petitioner claims to be a public spirited person involved in various social activities in the district of Bhojpur and Shahabad Division. He also claims to be the President of an organisation in the name of Veer Kunwar Singh Memorial Council, Ara. He has raised, in the present writ application filed in the nature of Public Interest Litigation, issues relating to



inadequate maintenance of the fort, the museum and the secretariat of Veer Kunwar Singh, a veteran freedom fighter. Highlighting the contributions of Veer Kunwar Singh during the Indian Rebellion of 1857 and his achievements, the petitioner is seeking a direction to the respondents to repair, face-lift, maintain and develop as memorial, the fort, the museum and the other heritage buildings associated with Veer Kunwar Singh, located at Jagdishpur and at Ara under the Bhojpur district of Bihar. The petitioner has also sought for a direction from this Court to declare the said structures/ sites as national heritage and to tag it with national museum for maintenance.

2. Earlier, by an order dated 25.03.2022 the respondents were directed to file counter affidavits. Accordingly two counter affidavits have been filed, one is on behalf of the Art, Culture and Youth Department, Government of Bihar (Respondent No. 5) and the other on behalf of the District Magistrate, Bhojpur at Ara (Respondent No. 6). It has been stated in the counter affidavit filed on behalf of Respondent No. 5 that in recognition of the remarkable contributions and the fame of the great warrior Veer Kunwar Singh, the State Government has already declared his residential premises at Jagdishpur as protected monument and included it in the



protected list, in exercise of the power conferred under Section 3(3) of the Bihar Ancient Monuments and Archaeological Sites, Remains and Art Treasurers Act, 1976 (Bihar Ancient Monument Act in short), by a gazette notification dated 25.07.2000. It has further been stated that the Government of Bihar has been continuously and incessantly engaged in maintaining and developing the declared protected monuments of Veer Kunwar Singh with the funds allocated to the department in the State-Budget. There is reference to an action taken report of the year 2016 of the Regional Deputy Director, Museum, Patna communicated to the Director, Archaeology, Bihar, Patna vide letter dated 25.04.2016 to the effect that the renovation and construction work of the premises was extensively under process by the Nagar Parishad, Jagdishpur. There is reference in the counter affidavit to various steps taken for maintenance and upkeep of the said monument. It has further been mentioned that a function viz., "Babu Veer Kunwar Singh Vijayotsav Samaroh" was organised by the State Government on a large scale for which a meeting of the organising committee comprising heads of the various departments was held, presided over by the Chief Secretary of the State in which numerous decisions were taken to improve,



renovate and maintain the places related to Babu Veer Kunwar Singh. In the proceedings of the meeting issued vide Memo No. 16.02.2018, following directions were issued to the Building Construction Department, as decided by the said committee: -

- i. Memorial of 1857 shall be constructed at Ara House, Kayam Nagar, Bibiganj and Shivpur Ghat where Sillapat shall also be established.*
- ii. Entire premises of Maharaja College, Ara shall be painted.*
- iii. Renovation, painting of Babu Veer Kunwar Singh Smarak, Jagdishpur shall be done and for public convenience toilet and drinking water shall be provided.*
- iv. Government buildings at Jagdishpur and Patna shall be decorated.*
- v. Stadium along with Low Rise Gallery shall be constructed in the ground of Sabarat Sahu High School at Jagdishpur.*
- vi. Bronze statue of Babu Veer Kunwar Singh shall be established in Babu Veer Kunwar Singh Memorial and premises."*

3. Further, steps taken subsequent thereto by the Department of Art and Culture in connection with the said *Vijayotsav* function have been mentioned in the counter affidavit and it has also been stated that the department has been trying to do its best to maintain and improve the Babu Veer Kunwar Singh Memorial and premises with its limited financial resources.

4. In the counter affidavit filed on behalf of the District Magistrate, Bhojpur at Ara (Respondent No. 6) it has



been stated that a 5-member District Level Committee for taking steps for development of the fort, park etc has been constituted on 05.04.2022, headed by the Deputy Development Commissioner, Bhojpur, whereafter the committee has prepared a report and submitted it on 18.06.2022. It has further been stated that the Circle Officer, Jagdishpur has also submitted a report that all lands of Babu Veer Kunwar Singh fort , description of which is there in the said letter, have been physically visited and have been found in Register-II of the government revenue records. It has accordingly been stated that the District Magistrate, Bhojpur is prompt and vigilant on his part for proper maintenance and upkeep of the monuments. The assertion in the writ petition that the museum is in poor shape has been denied in the counter affidavit and it has been asserted that the residence of Veer Kunwar Singh at Jagdishpur and the fort as well as the temple etc. have been declared as museum and they are in good shape. In respect of Ara House in the district of Bhojpur, it is the stand of the District Magistrate that the district administration is taking all steps for its proper maintenance as and when required.

5. A supplementary counter affidavit has also been filed on behalf of respondent No. 6, wherein it has been stated



that for construction of Veer Kunwar Singh park in Ramna Maidan an agreement has already been executed and construction work is in progress. It has further been stated that for beautification of Veer Kunwar Singh Memorial situate in Kila Maidan, Jagdishpur an agreement has been executed and work of beautification is in progress.

6. We have heard Mr. Sunil Kumar Singh, learned counsel appearing on behalf of the petitioner, Dr. K.N. Singh, learned Solicitor General for the Union of India and Mr. Sarvesh Kumar Singh, learned AAG-13 for the State of Bihar.

7. After having gone through the counter affidavits and the supplementary counter affidavit filed on behalf of Respondents No. 5 and 6 it is manifest that the respondents have taken steps for protection and maintenance of the fort and other premises connected to Babu Veer Kunwar Singh in recognition of his contribution in the freedom struggle. It cannot be said that the respondents have completely ignored the protection and maintenance of the premises associated with Babu Veer Kunwar Singh; based on the pleadings on record.

8. As has been noted hereinabove, the State Government has already notified the residential premises of Veer Kunwar Singh as at Jagdishpur as a protected monument



under the Bihar Ancient Monument Act in exercise of its power under Section 3(3) thereof. Any ancient monument has been defined in Section 2(a) of the Act as under: -

2. (a) "ancient monument" means any structure, erection or monument or any tumulus or place of internment, or burning or any cave, rock-sculpture, inscription or monolith, which is of historical, archaeological or artistic interest, and which has been in existence for not less than one hundred years and includes-

(i) the remains thereof;

(ii) the site thereof;

(iii) the portion of land adjoining such site which may be necessary or required for the preservation, protection, upkeep and maintenance of the same; and

(iv) the means of access thereto and of convenient inspection and repairs thereof;"

9. The Bihar Ancient Monument Act casts statutory obligation on the State Government to preserve, protect and maintain every monument and do other ancillary things contemplated under the Bihar Ancient Monument Act. It is expected that the State Government and the authorities, under the Bihar Ancient Monument Act, shall make every earnest endeavor to duly discharge their statutory obligations under the Bihar Ancient Monument Act. The State of Bihar may also



consider declaring other structures associated with Veer Kunwar Singh located at various places as ancient monument/protected monument/sites/remains thereof in accordance with the provisions of the Bihar Ancient Monument Act for preservation, protection and maintenance thereof. We make it clear that we are not issuing any positive direction in the present order. We, however, observe that there is no reason why the State Government shall not discharge its obligations conferred under the provisions of the Bihar Ancient Monument Act.

10. In any view of the matter, this Court, exercising power of judicial review under Article 226 of the Constitution, has limited scope. What is required to be done for protection and maintenance of the structures/ places etc. connected with Veer Kunwar Singh, is primarily within the domain of the Executive, in the nature of policy making. It is settled legal position that policy decisions taken by the State or its authorities are beyond the purview of judicial review unless it is found to be violative of rights of individuals guaranteed under the statute or otherwise arbitrary and unreasonable.

11. In the wake of specific stand taken on behalf of the State Government, this writ application stands disposed of, but with an observation that the State may consider framing a



policy to ensure preservation, protection and maintenance of the monuments/sites/remains in connection with Veer Kunwar Singh, which have been declared protected monuments by the State Government of Bihar under Section 3(3) of the Bihar Ancient Monument Act.

12. This application stands disposed of accordingly.

(Chakradhari Sharan Singh, J)

**I agree
Madhuresh Prasad, J:**

(Madhuresh Prasad, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	27.03.2023
Uploading Date	25.09.2023
Transmission Date	NA

