

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6526 of 2023

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Pramod Kumar Singh Son of Ramyatan Prasad Singh, Resident of Bharat Niwas, Near Sastu Bhagat Kali Mandir, Ishwar Nagar, Jagdishpur, P.s.- Ishakchak, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
3. The Chairman, Bihar Rajya Pul Nirman Nigam Limited, Govt. of Bihar, Patna.
4. The Managing Director, Bihar Rajya Pul Nirman Nigam Limited, Govt. of Bihar, Patna.
5. The Secretary (Planning and Admin), Bihar Rajya Pul Nirman Nigam Limited, Govt. of Bihar, Patna.
6. The Deputy Chief Engineer, Work Circle-2, Bihar Rajya Pul Nirman Nigam Limited, Patna.
7. The Senior Project Engineer, Work Division, Bihar Rajya Pul Nirman Nigam Limited, Bhagalpur.
8. The District Magistrate, Bhagalpur.
9. The Sub Divisional Officer, Bhagalpur.
10. The Circle Officer, Bhagalpur Sadar, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rakesh Kumar Sharma, Advocate
For the Respondent/s	:	Mr. P.K. Sahi, A.G. with Kumar Manish, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT



(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 17-10-2023

Heard the parties.

2. The petitioner claims to be a Social Reformer and head of Bholanath Bridge Fly Over, Ishakchak approach Road Sangarsh Samiti, Bhagalpur and has preferred this Public Interest Litigation for a direction upon the respondents to provide approach road in the construction of Railway Over Bridge (ROB), namely, Bholanath over Bridge towards Ishakchak and Dikson Road which is being constructed in the heart of the town without any approach road thus affecting the people at large.

3. The facts leading to the present Public Interest Litigation is/are as follows:-

4. A railway line from Patna to Maldah is going through Bhagalpur and under that railway line, Bholanath under pass is present which during rainy season gets inundated with water and the local people has to face problem.

5. The State Government having found the difficulties of the local people took decision to construct a bridge over the railway line for their smooth movement. It will be known as Bholanath Flyover.

6. The locals however were disappointed when it



came to their knowledge that there is no approach road towards Ishakchak and the residents will have to continue taking the Bholanath underpass.

7. Thereafter, they resorted to agitation which followed the announcement of the concerned Minister of Road Construction, Govt. of Bihar that the approach road will be constructed. However, the tender so issued by the Department did not mention about the approach road.

8. The petitioner sought information from Bihar Rajya Pul Nirman Nigam Ltd., Work Division, Bhagalpur under the Right to Information Act and as per the reply dated 15.09.2022, there is no proposal for construction of approach road towards the Ishakchak.

9. Left with no option, the writ petition.

10. Learned counsel for the petitioner submits that respondent authorities know that large population are residing in Ishakchak and they have to use the Bholanath underpass which remains under water during monsoon and they have to wade through it. Still, an over bridge is being constructed without any approach road towards Ischakchak.

11. A counter affidavit has been filed on behalf of the respondent nos. 3 to 7 who are officials of the Bihar Rajya



Pul Nirman Nigam Ltd. Bihar Patna (henceforth for short 'the Pul Nigam Ltd.'). The same has been duly put on affidavit by its Senior Project Manager, Work Division posted at Bhagalpur stating therein that:

(a) the said Railway Over Bridge (ROB) is being constructed for the convenience of local population and to facilitate the transportation of local inhabitant of various localities situated around the main market, school, college, railway station and bus stand etc.

(b) the alignment of the said Railway Over Bridge (ROB) has been finalized keeping in view the factum of minimum disturbance and maximum convenience to the local population living in and around the said Railway Over Bridge (ROB).

(c) It is extremely relevant to state that the said Railway Over Bridge (ROB) is crossing over two Railway lines, namely, (i) Bhagalpur Sahabganj Line and (i) Bhagalpur Mandarhill Line. Accordingly, this typical structure of the ROB span having to cover / go over two



distinct railway lines has to be kept in mind and has to meet the approval of the Railways. For the same, Railway has given NOC and the work of utility shifting has also started.

(d) after completion of the said Railway Over Bridge (ROB), the local population will be able to move conveniently in and around the two Railway lines and Railway Over Bridge (ROB).

12. It has further been incorporated that so far as the prayer of the petitioner regarding provision of approach road is concerned, the same was duly considered but was not found to be technically feasible and proper in the attending placement of connecting roads, railways lines and engineering design.

13. We further took note of the stand of the respondents, according to which :

(a) upon perusal of the appropriate google map, it would be evident that the Ishakchak road and Diction road are on the immediate opposite sides of the Bhagalpur-Malda railway line. As such, there is not much distance between the two roads. If approach roads are given to both



these roads, a big rotary (roundabout) has to be built on the ROB, which is impractical when viewed from any angle;

(b) the width of the ROB's span is around 8-9 m. Also, both the aforesaid roads also have a width of around 8-9 m. In that view of the matter, there will be no space left on either of the aforesaid roads at the point of ROB's touchdown. Surely, the same is an inconceivable proposition;

(c) the Railway doesn't warrant any conflict with the tracks of the railway lines and, situated thus, it does not allow any junction on the ROB's span which is adjacent to the tracks of the railway lines. As such, the two aforesaid roads, which are immediately adjacent to the tracks of the railway line, cannot be given any approach road to / from the ROB as it would be in direct conflict with the railway's standard operating procedures;

(d) even otherwise, the railways would face a problem of expansion later on if the aforesaid roads are given approach roads to/from the ROB.



14. We have heard the parties at length.

15. Certainly, for movement of vehicular traffic across the two railway lines, there is an underpass which passes below it. The said underpass serves its purpose for most of the year except during the monsoon period when it becomes little difficult to navigate on account of water logging. However, the same is the situation of all the underpasses through out the country including the famous Minto Bridge in Delhi. In order to alleviate the problem, the proposed ROB has been conceived in this case.

16. Further, with the construction of the ROB, the underpass would continue to serve the people and there will be less traffic on it.

17. We are satisfied that the respondents have fully narrated the reason behind the aforesaid approach Road not being considered for construction. An underpass is there which serves the people most of the year except for the monsoon. Further, the Railways/State Government always conceive/plan project with future in their mind. The respondents have rightly pointed out that any construction so made will cause problem to the Railways if future expansion plan for railway lines/ construction of additional railway lines are envisaged.



18. We further accept the contention of the respondents that proposed ROB is going to benefit the villagers of Ishakchak and Dikson road as also the people living around the railway lines. An undepass is available between Ishakchak and Dikson road, both being very close to each other.

19. In the aforesaid backdrop, the relief sought for by the petitioner being impractical, the same cannot be extended, the writ petition is accordingly dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Jagdish/-

AFR/NAFR	NAFR
CAV DATE	N/A
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