

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7098 of 2023

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Purushottam Singh @ Purushotam Kumar Singh Son of Late Bigan Singh
Resident of Village and P.O.-Nawada Ben, P.S.- Nawada, District- Bhojpur,
Bihar Pin 802162

... .. Petitioner/s

Versus

1. The Union of India Through Ministry of Railway, Rail Bhawan, Raisina Road, New Delhi-110001.
2. The State of Bihar, Through Chief Secretary, Government of Bihar, Patna.
3. The Divisional Railway Manager, Danapur DRM Office East Central Railway, Danapur, Patna (Bihar) 801105.
4. The District Magistrate, Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binay Kumar Singh, Advocate
For the State	:	AAG IV
For the Railways	:	Mr. Binay Kumar Pandey, 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 : 11-10-2023

Heard the parties.

2. The present petition has been preferred by the petitioner in the form of a Public Interest Litigation for direction to the respondents for constructing Railway underpass and/or for constructing over bridge on railway track or any other alternate arrangement so that the villagers near Karisath Railway Station do not have to face difficulty on day to day basis.

3. The petitioner claims to be a social worker and retired employee engaged in helping people, other social



activities not only in his village but also in and around it.

4. The brief facts giving rise to this application are as follows:

(i) from Railway under pass near Karisath Railway Station, there is a road passing through village Masarh, Kudwa Tola, Nawada Ben & Kaura and further connects ARA-BUXAR road leading to NH-319. It passes through the railway underpass which is life line of the transportation of the above mentioned villagers;

(ii) however, during the month of June and July specially rainy season, lots of water gets accumulated near the railway underpass which completely obstructs the movement of local people. This situation left local people with no option but to use dangerous means by crossing over railway track resulting into various accidents;

(iii) further during the rainy season, the condition of the railway underpass near Karisath Railway Station deteriorates to such a level that no transportation is feasible through for 3-4 months in a year. Thus, the situation is alarming and critical.

(iv) the contention is that he filed representation to the concerned authorities about this situation in



the year 1991 and further on 18.08.1997 and received reply dated 08.10.1997 from the consultant to Railway Ministry assuring the matter has been taken into consideration by the Department.

(v) however, no step taken despite various complaints as also numerous RTI's thereby seeking the requisite information forcing him to prefer writ petition.

5. The counter affidavit of the respondent nos. 1 and 3, namely, Indian Railways is on record. According to it, the underpass at Karisath Railway Station was constructed for water ways in order to let the water pass for the safe running of the trains. The area around underpass is relatively lower than surrounding area as it was meant for passage of water flow to avoid damage to the Railway tracks.

6. Further, the Karisath Railway Station is located at Km. 602/15-17 between ARA & Buxar of Patna Junction Pandit Deendayal Upadhyaya Railway Station. At present underpass mentioned is for Br.No.243, Km.603/9-11 and Br.No.245, Km. 603/31-33 which is being used unauthorizedly by the public in general of the said locality for movement of traffic and light vehicles whereas these bridges are purely water ways bridges and not for the purpose of passage of traffic.



Further, being water way bridges, it naturally gets water logged during the rainy season.

7. It is further stated that the Railway Administration has already provided two Level Crossings between Karisath Railway Station & Bihiya Railway Station for passage of traffic viz.

(i) Level Crossing No. 51/C at Km.608/5-7

and

(ii) Level Crossing No.52/B at Km.610/11-13

which should be used for easy transportation to avoid tress passing the Railway track(s) which is passing above the underpass and to avoid accidents and deaths.

8. It is further been narrated that Railway has limited width of land at both sides of track. It is 23.0 Mtr. from the centre of track towards South & North side. Therefore, being a low level area, construction of full height underpass will not be feasible rather a limited height may be constructed/provided and approach land shall be provided by the State Government. Thereafter, Railways may proceed on the same and process for sanction of work shall be initiated.

9. It is further stated that so far as demand for providing Road Under Bridge/Foot Over Bridge /Pedestrian



Subway at location where no level crossing exist is concerned, Railway Board, vide its letter No.2017/CE-IV/ LX/Misc./ 244 (LCs) Pt. dated 02.03.2023 has issued guideline that **"If the location is a source of trespass, affecting safety in train operations, mobility of train and fixed infrastructure of Railway, Railway may consider providing Sub Way/Foot Over Bridge as per feasibility."**

10. We have heard the parties and perused the records of the case.

11. The claim of the petitioner is that the life of the people becomes miserable during rainy season due to the condition of railway underpass near Karisath Railway Station is unfounded. The respondent-Railway has made a categorical statement and not denied by the petitioner that:

(i) the under-pass near the Karisath Railway Station was constructed for water ways to pass surface run off water for providing safe train operations and it was made for passage of water flow to avoid damage to the railway track. It was further never meant for traffic but to let water pass so that the tracks do not get damaged;

(ii) the underpass is being



unauthorizedly used by the public in general as these are purely water ways which is not for the purpose of traffic and naturally it gets water logged during the rainy season;

(iii) two railway crossings exist between Karisath Railway Station & Bihiya Railway Station for the passage of traffic movement, as narrated above. Further as the land of the Railway is limited in both side of track there, construction of any full height underpass is not feasible.

12. We are not convinced with the prayers/submissions advanced by the learned counsel for the parties.

13. The writ petitioner do not have any case which is accordingly dismissed but without cost.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Jagdish/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.10.2023
Transmission Date	

