

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10639 of 2024

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Vishwanath Yadav @ Bishwa Nath Yadav Son of Mithu Yadav resident of
Village- Morama, Post- Morama, Rajaun, P.S.- Rajaun, District- Banka,
813107.

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, Eastern Railway, Kolkata, West Bengal.
2. The Divisional Railway Manager, Malda Division, Malda, West Bengal.
3. The State of Bihar, through Chief Secretary, Govt. of Bihar Patna.
4. The Principal Secretary, Rural Development Department, Govt. of Bihar, Patna.
5. The Principal Secretary, Panchayati Raj Department, Govt. of Bihar, Patna.
6. The District Magistrate, Banka, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anshuman Singh, Advocate
For the Respondent/s : Mr.Ramadhar Shekhar, CGC

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-07-2024

The petitioner has filed the above Public Interest Litigation for the removal of obstruction created by Bhagalpur- Hansdiha Railway Line on the connecting road of the Revenue Village Morama, District-Banka.

2. Admittedly, the road was built under the Prime Minister's Gram Sadak Yojna over which the railway lines



are built. There is no dispute that the railway line existed before the construction of the road.

3. Learned counsel for the petitioner referred to two orders of this Court, one in a CWJC and the other in a contempt case. In the CWJC, the relief sought was to prevent obstruction of the Jalalpur to Dariyapur road under Akbarpur Block District- Nawada. The Division Bench was not inclined to consider the prayers and the learned Counsel for the petitioner sought for a direction to consider a representation. Such representation was directed to be considered by the Railway Authorities.

4. A contempt case was filed wherein it was recorded that pursuant to the previous orders, the respondent-Railways had given an undertaking that by June 2025, Limited Height Subway, would be constructed in compliance of the orders of this Court. Obviously, no contempt would lie from the order in CWJC, since there was no positive direction therein. It was pursuant to an order made by the Court, which was considering the contempt case, that such an undertaking was given by the Railways.

5. The cited case related to the District-Nawada,



whereas the present writ petition relates to District-Banka; a distinct cause of action. Merely because in one of the Public Interest Litigations, a representation was directed to be considered, it is not the law that in every PIL, if the Court is not inclined, there should be a direction for consideration of representation nor can it be asserted that the undertaking given by the Railways in the contempt case should be repeated in every case filed before this Court, with respect to obstruction caused by railway lines.

6. As we noticed at the outset, the railway line existed already and merely on construction of the road, it cannot be said that the barricade put by the Railways to cross the road should be removed nor can it be claimed that either an underpass or an over-bridge should be constructed. The construction of an over-bridge or an underpass would depend upon various factors including the footfalls, the density of the vehicular traffic and also the existence of an alternate route nearby.

7. We find no reason to invoke the extraordinary jurisdiction in which context, the learned counsel for the petitioner sought withdrawal of the writ petition.



8. The writ petition, hence stands dismissed as
withdrawn.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Anushka/-

AFR/NAFR	
CAV DATE	
Uploading Date	22.07.2024
Transmission Date	

