

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11749 of 2023

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Manish Son of Late Jagdish Prasad Singh, R/o village-Poharpur, P.S.-Simri Bakhtiarpur, District-Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Panchayati Raj Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Panchayati Raj Department, Govt. of Bihar, Patna.
3. The Deputy Development Commissioner, Saharsa.
4. The District Magistrate, Saharsa.
5. The District Panchayati Raj Officer, Saharsa.
6. The Sub-Divisional Officer, Simri Bakhtiarpur, Saharsa.
7. The Circle Officer, Simri Bakhtiarpur, Saharsa.
8. The Block Development Officer, Simri Bakhtiarpur, Saharsa.
9. The Panchayat Secretary, Panchayati Raj Chakbharo, P.S.-Simri Bakhtiarpur, District-Saharsa.
10. The Revenue Officer, Circle Office, Simri Bakhtiarpur, Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Paritosh Parimal, Advocate
For the State	:	Mr. P.K. Shahi, AG

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 01-03-2024

Heard the parties.

2. The present writ petition by way of Public Interest

Litigation has been filed for a direction upon the respondents not to construct the garbage house at Ward No. 5, *Khata* No. 251, *Khesra* No. 1781 in Gram Panchayat Chakbharo, which is said to be a densely populated residential area, although there is



other available government land for construction of the same.

3. Learned Counsel for the petitioner contends that the garbage house is being constructed under the Clean India Mission in all over India and in terms thereof in the State of Bihar at Panchayat level, the Panchayati Raj Department, Bihar is constructing Waste Processing Unit (in short 'WPU'). It is informed to this Court that there is a pond beside the proposed WPU, apart from the same being in the residential area and the main thoroughfare of the village is crossing through. The Circle Officer, Simri Kakhtiyarpur has granted No Objection Certificate for construction of WPU at *Khesra* No. 1781. In the afore noted circumstances, the persons of the locality requested that the garbage house (WPU) may be constructed at any other place away from the residential area but the respondents have not acceded to their request. Moreover, it is submitted, that any construction of garbage house in the residential area is contrary to the guidelines issued in this regard.

4. The learned Government Advocate while refuting the contention of the petitioner has submitted that the Department of Rural Development, Government of Bihar, Patna issued guidelines under Lohiya Swachh Mission for construction of Waste Processing Unit in all the Gram



Panchayats which is to be proposed and selected by the Panchayat and accordingly in the light of the said guidelines, the Circle Officer sent his recommendation to the Block Development Officer, Simri Bakhtiyarpur for construction of WPU over *Khsra* No. 1781 in Gram Panchayat Chakbharo. It is also informed to this Court that during site selection the competent authority has found that the part of the said land has been encroached by the petitioner and others, leading to initiation of Encroachment Case No. 02/23-24 against them. The notice and the order passed in the encroachment case have been brought on record through counter affidavit. The name of the petitioner is found to be one of the encroachers.

5. Having heard the parties, this Court finds that the contention of the petitioner, apart from being unfounded is erroneous and misleading. There is a specific contention of the respondent authorities that the WPU is at a distance from the residential house of the villages and the selection of the proposed site was done in accordance with the guidelines issued by the State Government. Moreover the site in question is found to be suitable and there is an approach road reaching the site of the WPU. Further, there is a provision for construction of 5-6 feet boundary wall over the campus of the said WPU where the



structure will also be constructed.

6. Besides the aforesaid facts, this Court finds that, though it is submitted that the petitioner has no private interest, direct or indirect in the case as the same is being filed in the interest of public at large, however, the material available on record shows otherwise, disclosing the direct interest of the petitioner over the issue in question and the present writ petition is a sheer misuse of the Public Interest Litigation measure and thus this Court warns the petitioner to be cautioned in future in making such attempts; failing which exemplary costs shall be awarded.

7. The writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	04.03.2024
Transmission Date	

