

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12125 of 2023

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Ajay Kumar Mukhiya S/o Biltu Mukhiya R/o Village Ghaghara, P.S. Parihar
District Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Revenue and Land Reforms Department, Bihar, Patna.
2. The Director of Animal and Fishery Resources Department, Bihar Patna.
3. The Secretary of Animal and Fishery Resources Department, Bihar Patna
4. The District Magistrate, Cum Collector, Sitamarhi.
5. The Deputy Collector of Land Reforms, Sitamarhi.
6. Circle Officer of Parihar Block, District-Sitamarhi.
7. The Executive Engineer, Electric Supply Sub-Division Pupari, Sitamarhi
8. The Assistant Project Officer of Electric Feeder Project Pupari, Sitamarhi.
9. Sub-Divisional Engineer of Electric, Supply Sub-Division, Pupari, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Tribhuwan Narayan, Advocate
For the Respondent/s	:	Mr. P.K. Shahi, AG
For the NBPDC	:	Mr. Kunal Tiwary, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 26-04-2024

Heard the parties.

2. The petitioner, a member of Parihar Block Fishery Co-operative Society has filed the writ petition under Article 226 of the Constitution of India by way of a public interest litigation seeking a direction upon the respondent authorities, particularly respondent no. 7 to stop the work of filling the



puddle with soil and constructing electric power feeder thereon.

3. It is contended that the land, in question, pertaining to Khata No. 791, Plot No. 1988 is in the nature of pond and settled to local fishery society, however, the respondent authorities have changed its nature by levelling the land of Khata No. 791 and filling soil in Plot No. 1988.

4. The petitioner being a member of Block Co-operative Society raised serious reservation and made complaint before the Sub-Divisional Public Grievance Redressal Officer, Sitamarhi. The aforementioned complaint came to be disposed of with a direction to file an appropriate application before the Executive Engineer of the concerned Electricity Division. In pursuance thereto, the writ petitioner submitted his application to the Executive Engineer, Electric Supply Division, Pupari, Sitamarhi. The respondent authorities never paid any heed to the complaint of the petitioner, compelling the petitioner to approach this Court. Learned Counsel for the petitioner also urged that the aforesaid pond is the only source of drinking water for animals and it has been in use since long by the villagers for many purposes, including fisheries work.

5. Pursuant to the direction of this Court, counter



affidavits as well as supplementary counter affidavits have been filed on behalf of the State Officials as well as the authorities of the North Bihar Power Distribution Company Limited (hereinafter referred to as NBPDC). It is categorically averred therein that total 0.78 acres was allotted to the NBPDC by the State of Bihar for construction of 33/11 KV PSS at Mahadevpatti at Parihar Circle. The actual construction of 33/11 KV PSS was made on 0.37 acres only, however, on account of dimensional issue of the land, construction has been made beyond the allotted area of the land for an area of 15.45 decimal as the layout design of the feeder, control room and equipment yard required the construction to be made in such manner. Thus the construction was made beyond the construction area of land, but in no manner affected the pond, in question.

6. It is also informed that from the said Electric Power Sub-station, which is now fully constructed and energized, more than 22,000 consumers in Parihar Block and in its headquarter as well as other panchayat are being benefited. Counter affidavit specifically denied the allegation that the NBPDC has in any manner filled the pond or changed its nature. It is also urged that the extra land on which the 33/11 KV PSS Electric Power Sub-



station has been constructed is the land between the road and pond and the construction has not been made on the land of the pond.

7. That apart, the Electrical Executive Engineer has also requested the concerned authorities for settlement of the additional land by the Government of Bihar with the Electricity Division. In support of the aforementioned contention, the NBPDCCL has brought on record photographs showing construction of the 33/11 KV PSS.

8. Having considered the materials available on record, *prima facie*, this Court finds that the land, in question, was settled in favour of the NBPDCCL for construction of 33/11 KV PSS and the same has been constructed and energized and the consumers have been given the electricity connections. The photographs brought on record also suggests that the pond is still existing besides the Electric Power Sub-station and the power Sub-station does not change the nature of the pond in any manner. This Court also finds that the land which is selected for construction of sub-station is dependent upon many factors and the same was allotted by the State Government, which decision is based upon various other factors and thus, any order of this



Court at this stage would be uncalled for.

9. We do not find any reason to continue with the present writ petition, accordingly the same stands dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

shivank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.04.2024.
Transmission Date	NA

