

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14967 of 2022

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Brajmohan Kumar Singh S/o Late Surendra Singh, R/o Village and Post -
Safiyabad, P.S. - Baikunthpur, District - Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Panchayat Raj Department,
Government of Bihar, Patna.
2. The Principal Secretary, Panchayat Raj Department, Government of Bihar,
Patna.
3. The District Magistrate, Gopalganj.
4. The Deputy Development Commissioner-cum-Chief Executive Officer,
District Board, Gopalganj.
5. The Working Agency-cum-District Engineer, District Board, Gopalganj.
6. The Block Development Officer-cum-Executive Officer, Panchayat Samiti,
Block - Baikunthpur, District - Gopalganj.
7. The Circle Officer, Circle Office, Baikunthpur, District - Gopalganj.
8. The Chairman, District Board, Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manindra Kishore Singh, Advocate
For the State	:	Mr. Ajay, G.A.-5
For the Zila Parishad	:	Mr. Ranjeet Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

I.A. No. 01 of 2024

6 06-05-2024

The aforesaid Interlocutory Application has been
preferred for incorporating the following prayer:-

(i) to remove the construction and to pay damages
over the land of the petitioner;

(ii) to pay compensation on which PCC road has been
constructed.

2. There is no objection from the State side.

3. Accordingly, I.A. No. 01 of 2024 is allowed.

4. Let the aforesaid two prayers be incorporated as
prayer of the main writ petition.



C.W.J.C. No. 14967 of 2022

The present petition has been preferred for the following reliefs:-

(i) to set aside the work order passed by the District Board, Gopalganj on 27.05.2017 and issued under the signature of Deputy Development Commissioner-cum-Chief Executive Officer, District Board, Gopalganj vide its Letter No. 408 dated 05.07.2022, by which Scheme No. 14/22-23 under 15th Finance Commission's untied Scheme" has been approved to construct a PCC Road in Village-Safiyabad under Gram Panchayat Raj Dharmbari situated in Baikunthpur Block District-Gopalganj;

(ii) to examine and take action against the Respondent concern who has not reported the actual position of the land through which the scheme has been approved, which is in possession of the petitioner since 1964-65 for the continuously land revenue is being paid till date and no notice has ever been served to the petitioner for acquisition. The Circle Officer, Baikunthpur has



wrongly reported the land as Govt. land and issued the No Objection Certificate to the District Board, Gopalganj;

(iii) to direct the Respondent concern to immediately stop the operation of the work order till final disposal of this case.

2. Learned Counsel for the petitioner has taken this Court to the counter affidavit as also the supplementary counter affidavit filed on behalf of the respondent nos. 4 and 5, Zila Parishad, Gopalganj to show that till February, 2024, the *Jamabandi* is continuing in the name of the family of the petitioner. Though, repeatedly, they have stated that process are being taken to get the *jamabandi* cancelled, without waiting for it showing their might, they have constructed PCC road in that background, he is entitled for the compensation.

3. Learned Counsel appearing on behalf of the Zila Parishad, Gopalganj has taken this Court to paragraph-6 of the counter affidavit which read as follows:-

“6. That so far Para- 4 of the reply of counter affidavit of petitioner is concerned, it is submitted that plot no. 1357 under Khata no. 520 of village Safiabad, Anchal- Baikuthpur is Gair Majarua Malik Parti Kadim land and vested in state of Bihar right from the date of enforcement of



Bihar Land Reforms Act 1950 and prior to the time of vesting of the land in State of Bihar, the public of the village used land as public path and rest of the land is also used in public utility.

Since a Jamabandi was fraudulently created in the name of Surendra Rai without the case no. of Jamabandi and without the basis of creation of Jamabandi in Register - 2.

The land is being used as RASTA. So, there is no proof of possession of this land being held by the petitioner.

Therefore it was legal obligation at the part of the Revenue Officer to get the "Jamabandi" cancelled by the process of section 9 & 13 of Bihar Mutation Act 2012 and accordingly, a proposal of cancellation of Jamabandi vide letter no. 248 dated 17.02.2023 was sent to the Additional Collector, Gopalganj."

4. A bare perusal of the said paragraph would show that they have accepted that it is legal obligation on their part to take the matter pending before the Additional Collector, Gopalganj to its logical conclusion.

5. This Court has gone through the counter affidavit as also the supplementary counter affidavit and though the Zila Parishad, Gopalganj talks about the matter having been referred to the Additional Collector, Gopalganj, even the case number is



not on record when a fresh counter affidavit has been filed in the month of February, 2024. In that background, it is clear that the Zila Parishad, Gopalganj has exceeded its jurisdiction and rightly or wrongly, a *jamabandi* is continuing in the name of the petitioner. As such, the writ petition stands disposed of with the following directions:-

(i) now that the construction has been done, the Zila Parishad, Gopalganj is duty bound to take the matter allegedly pending before the Additional Collector, Gopalganj (since there is nothing on record to show that even such case has been filed or not) within a period of three months from today;

(ii) failure to take the matter allegedly pending before the Additional Collector, Gopalganj to its logical conclusion by 31st of July, 2024, the concerned respondent is duty bound to pay compensation amount to the petitioner within a period of two months thereafter i.e. by 30th of September, 2024.

6. The writ petition stands disposed of.

(Rajiv Roy, J)

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