

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13893 of 2023

Surendra Raut Son of Butan Raut, Resident of Village - Mehsaul, Ward no. 07, P.O. - Mehsaul, P.S. - Runisaidpur, District - Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Secretary, Rural Development Department, Government of Bihar, Patna.
3. The Commissioner, Tirhut Division, District - Sitamarhi.
4. District Magistrate, District - Sitamarhi.
5. Block Development Officer, Runisaidpur, District - Sitamarhi.
6. The Circle Officer, Runisaidpur, District - Sitamarhi.
7. The District Programme Officer, District - Sitamarhi.
8. The Mukhiya, Gram Panchayat - Gangwara Buzurg, Block - Runisaidpur, District - Sitamarhi.
9. The Bihar Pollution Control Board through its Chairman, Government of Bihar, Patna.
10. The Chairman, The Bihar Pollution Control Board, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar with Ms. Ritika Rani and Mr. Vardaan Mangalam, Advocates
For the Respondent/s	:	Mr. Vivek Prasad (GP 7)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 17-02-2024

Heard the parties.

2. By way of Public Interest Litigation the petitioner is seeking quashing of the office order as contained in Memo No. 1053 dated 09.05.2023 under the signature of the Circle Officer, Runisaidpur, Sitamarhi, whereby 'No Objection Certificate' has



been issued for construction of Waste Processing Unit (for brevity 'WPU') over revenue Village-Mehsaul, Thana No. 82, Khata No.954, Khesra No. 4606, area-6.88 decimals, which is said to be *gairmajarua* Bihar Sarkar land (*rasta*), without getting permission of the Bihar Pollution Control Board. The petitioner further sought a declaration from this Court that the decision taken for construction of WPU upon the land mentioned above is *void ab initio*, against aim and the object of Solid Waste Management Rules, 2016 and the Guidelines issued by the Department of Rural Development under "Lohia Swachh Bihar Abhiyan Phase-II (2020-21-2024-25)" and further to issue a direction to the State Government to remove the said WPU.

3. It is the case of the petitioner that in order to achieve the objective of "clean village, prosperous village" under the Saksham Bihar (Self-Reliant Bihar), Lohia Swachh Bihar Abhiyan Phase-II (2020-21-2024-25) (for brevity 'LSBA') was initiated and in the light of the aforementioned guidelines issued under the signature of the Principal Secretary, Rural Development Department, Government of Bihar, Patna dated 20.12.2021, Solid Liquid Management is implemented to segregate the Solid Waste into Biodegradable Waste and Non-Biodegradable Waste. The aforesaid segregation is processed



through WPU as elaborated through the guidelines in order to encourage the recycle and reuse of Biodegradable Waste and Non-Biodegradable Waste to produce organic fertilizers etc. or other natural products with compost to facilitate the public health within the Gram Panchayat.

4. It is submitted on behalf of the petitioner that contrary to the terms of Solid Waste Management Rules, 2016 and the guidelines issued by the Rural Development Department under the LSB Abhiyan, the respondent no. 8, the Mukhiya, Gram Panchayat-Gangwara Buzurg, Block Runisaidpur unauthorisedly constructed WPU in collusion with other government officials including the Circle Officer, who has issued 'No Objection Certificate' vide office order memo No. 1053 dated 09.05.2023. It is vehemently contended that the selection of the site for construction of WPU over the land in question is a *gairmajarua* land in the nature of *rasta* for the use of general public. If the above Scheme is implemented at the proposed site, *rasta* of the farmers of the area will be closed due to which their land tenure will be adversely affected. Besides, there are 50 families on both sides of the road at a distance of about 100 feet from the proposed site. Thus, due to construction of WPU in this populated area, it would be difficult for the



adjoining local persons to live in their houses and be exposed to filth and foul stench of the waste, which will be hazardous to their health. Adverting to the aforesaid facts, it is also contended that several applications and objections were also filed to challenge the selection of proposed site for construction of Waste Processing Unit but to no avail and thus left with no option, the petitioner moved before this Court by filing the present petition under Article 226 of the Constitution of India.

5. Learned Government Advocate representing the respondent State officials referring to the averments made in the counter affidavit filed on behalf of respondent nos. 4 and 5 submitted that under the Bihar Panchayat Raj Act, 2006 and the Guidelines of LSBA, especially para-12.1, it provides authority to Gram Panchayat to manage Solid Liquid Waste within their panchayat area and responsibility has been cast upon the Gram Panchayat to ensure the objectives of Notification (2017) issued by the Ministry of Environment, Forest and Climate Change, Govt. of India. In the light of the provisions prescribed under the LSBA, Waste Processing Units are to be constructed in each and every Gram Panchayats of the State of Bihar and the land in question has been selected for construction of WPU through the Gram Sabha in its meeting held on 13.08.2022, with the consent



of all the members/residents present in Gram Sabha. Upon such proposal for construction of WPU, 'No Objection Certificate' was issued by the Circle Officer, Runisaidpur, based upon the enquiry reports submitted by the Revenue Karamchari and the Anchal Amin.

6. It is informed to this Court that after receipt of the copy of the present writ petition filed before this Court, a direction was issued at the level of the Deputy Development Commissioner, Sitamarhi to all the concerned including the Block Development Officer, Runisaidpur, Circle Officer, Runisaidpur, District and Block Coordinators, LSBA to submit a report regarding objection raised by the petitioner. A report has been submitted which is marked as Anneuxre-R/D (series) and R/E (series). Some photographs of the spot are also produced vide Anneuxre-R/F (series) to the counter affidavit. Some of the photographs have also been placed across the Board on behalf of the petitioner which have also been taken on record.

7. We have carefully perused the materials on record, especially the reports and the photographs and has come to the conclusion that the land in question for construction of WPU has been selected through the resolution passed by the Gram Panchayat in the Gram Sabha and the copy of the proceedings



suggests the signature/thumb impression of the residents of the panchayat. Further, 'No Objection Certificate' issued by the Circle Officer, Runisaidpur is based upon the reports submitted by the Revenue Karamchari and the Anchal Amin with specific assertion that there is no residential house at a distance of 200 metres from the proposed land for construction of WPU and public road is too wide in view of convenience of the people, the construction of such WPU will be helpful in better management of waste at panchayat level. From a bare perusal of the photographs it also appear that there is no inhabitant/house just near the WPU.

8. So far as the plea of the petitioner that No Objection Certificate has been issued without any permission of Bihar Pollution Control Board is concerned, we would refer to rule 15(y) of the Solid Waste Management Rules, 2016, which necessitated authorisation for setting up waste processing treatment or disposal facility, if the volume of waste is exceeding five metric tons per day including sanitary landfills from the State Pollution Control Board or the Pollution Control Committee. However, there is no pleading in this regard in the writ petition.

9. That apart, the State has come out with specific



undertaking that there shall be no disturbance in the movement of the people and there would be no bad effect upon the health of the people residing at the far distance of about 200 metres and the construction of WPU is physically complete which would be helpful in better management of waste at panchayat level. This Court does not find any merit in the present petition, thus, it stands dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	22.02.2024
Transmission Date	

