

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4218 of 2025

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Premchandra Kumar Son of - Shree Umesh Ray, Resident of Village
-Mahuava, P.S.- Bathnaha, District- Sitamadhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home, Govt. of Bihar, Patna.
3. The Director in-Chief cum the Addl. Chief Secretary, (DC cum ACS Health Department) ,Govt. of Bihar, Patna.
4. The Managing Director BMSICL, Department of Health, Govt. Bihar Sekhpura, Patna.
5. The Civil Surgeon, Sitamadhi, District- Sitamadhi.
6. The District Magistrate Cum the Collector, Sitamadhi, District- Sitamadhi.
7. The Addl. Collector, Sitamadhi, District- Sitamadhi.
8. The Sub-Divisional Officer, Sitamadhi, District- Sitamadhi.
9. The Circle Officer, Bathnaha, District- Sitamadhi.
10. The S.H.O., Bathnaha, District- Sitamadhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vitesh Kumar Singh, Advocate
For the State	:	Mr. P.K. Shahi, Advocate General
For Respondent No.4	:	Mr. Lalit Kishore, Sr. Advocate
		Mr. Vikash Kumar, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

4 24-11-2025 The writ application has been filed for the following
relief:

“1. That this is a writ in the nature of Public Interest Litigation for directing to the respondents to construct the Primary health center in the village of Mahuava where by and where under the said health center running more that 70 years and sufficient land was available, but the authority want to construct the



said building in the village of Surgahiya in river belt and the said village is the distance of Mahuava village more than 5 kilometer and also direction for high level enquiry against the authority concerned, who are illegally demolished the house of the SC/SC family without any notice in village of Sugahiya in the name of construction of the hospital, which land was allotted by the Government vide settlement no. 10/84-85 and rent receipt was issued by authority in the said families and also the house was constructed in the fund of Indira Awas Yojna and the petitioner further prays that constitute a high level enquiry against the erring respondents, who kept mum after so many representation/request of the local people and due to inaction of the local officials, there is develop tension between both the village, which is hazard in public in mass and social harmony and also not good for our nation and further for granting any relief/reliefs to which the petitioner may be found in the eye of law.”

2. A counter affidavit has been filed on behalf of respondent Nos. 6 to 9, the relevant paragraphs of which are extracted hereinbelow:

“7. That the averment made by the petitioner in Paragraph No. 6 of the writ application as far as it relates to the record that Parcha was issued to some schedule caste people vide settlement Case No. 10/84-85 forms part of the office records; hence, admitted.

8. That however, the averment of the Petitioner that the house of poor people were demolished at 07:00 p.m. on 20.11.2024 is categorically denied and contested in lights of the facts that a perusal of the office records provide that the encroachments over the land in question were removed after following the due procedure for removal of encroachment prescribed under Bihar Public Land Encroachment Act, 1956. Furthermore, the averment made by the Petitioner that Indira Awaas houses were



subsisting over the land in question is also categorically denied and contested as the encroachment over the land in question were of temporary nature which had duly been removed on 30.10.2023.

9. That it is pertinent to state here at this stage that a perusal of office records provide that an Encroachment Case No. 04/23-24 was initiated in furtherance of the Letter of the Mukhiya, Gram Panchayat Raj, Surgahiya for grant of No Objection Certificate on the aforesaid land proposed by the Mukhiya for the construction of Additional Primary Health Centre. In furtherance of the same report was sought from the Halka Karmchaari who stated that the said land as per Khatian is in the name of Bihar Government. Thereafter, a physical verification of the said land was made and the said land was demarcated by the Circle Ammen reported that some of the local people have encroached the said land. After perusing those reports, the erstwhile Circle Officer, Bathnaha issued preliminary notices dated 11.04.2023 under Section 3 of the Bihar Public Land Encroachment Act, 1956 to ten encroachers over the said land of the Government of Bihar. A perusal of the office records further provides that the encroachers failed to remove the encroachment after issuance of first notice and further failed to submit their objection; hence, a second notice under Section 6 of the Bihar Public Land Encroachment Act, 1956 was issued by the erstwhile Circle Officer on 11.09.2023. Thereafter, the said encroachments over the said land were removed in the presence of villagers on 30.10.2023.

14. That however, the submission of the Petitioner that the decision for construction of the A.P.H.C. in Surgahiya was taken due to political influence is hereby denied and contested in the light of the fact that a perusal of the Letter No. 1790 Dated 30.11.2023 of the erstwhile Circle Officer, Bathnaha provides that land for construction was A.P.H.C. was required; hence, the land pertaining to Khata No. 417, Khesra No. 1213, 1214 and 1215 proposed by the Mukhiya of the Gram Panchayat Raj, Mahuawa was



demarcated by the Circle Ameen, and the report was sent to the Civil Surgeon -cum- Chief Medical Officer, Sitamarhi for further necessary actions. The Civil Surgeon -cum- Chief Medical Officer by the Letter No. 4767 Dated 08.12.2023 requested the Joint Secretary, Health Department to get the building for the Additional Primary Health Centre, Mahuawa constructed on the said land in Surgahiya on the basis of the said letter of the Circle Officer and Letter No. 887 Dated 07.12.2023 of the Chairperson, Bihar Vidhan Parishad recommending the said land for the construction of the A.P.H.C. Mahuawa.

16. That however, all the other averments of the Petitioner are being denied and contested in lights of the fact that a perusal of office records provide that an Encroachment Case No. 04/23-24 was initiated in furtherance of the Letter of the Mukhiya, Gram Panchayat Raj, Surgahiya for grant of No Objection Certificate on the aforesaid land proposed by the Mukhiya for the construction of Additional Primary Health Centre. In furtherance of the same report was sought from the Halka Karmchaari who stated that the said land as per Khatiyani is in the name of Bihar Government. Thereafter, a physical verification of the said land was made and the said land was demarcated by the Circle Ammen reported that some of the local people have encroached the said land. After perusing those reports, the erstwhile Circle Officer, Bathnaha issued preliminary notices dated 11.04.2023 under Section 3 of the Bihar Public Land Encroachment Act, 1956 to ten encroachers over the said land of the Government of Bihar. A perusal of the office records further provides that the encroachers failed to submit their objections. Hence, the aforesaid final order was passed on 10.09.2023 and a second notice under Section 6 of the Bihar Public Land Encroachment Act, 1956 was issued by the erstwhile Circle Officer on 11.09.2023. Thereafter, encroachments over the said land were removed in the presence of villagers on 30.10.2023.

17. That in response to para 12 of the instant writ it is most respectfully stated that the



encroachments has duly been removed and the construction of Additional Primary Health Centre has already been started over the said land after getting permission and sanction from the Health Department, Government of Bihar. It is further pertinent to state here at this stage that a perusal of the office records provide that the instant dispute is a tussle between the Sarpanch and the Mukhiya of the Gram Panchayat Raj, Mahuawa as both of them are continuously filing applications complaining against the construction of Additional Primary Health Centre. The Sarpanch and his aides want the Additional Primary Health Centre to be constructed in Mahuava where the said A.P.H.C. used to run which is evident from a bare perusal of Annexure 5 Series and Annexure 6 Series of the instant writ, while the Mukhiya and his aides want the A.P.H.C. to be constructed at the said land in Lachua, Surgahiya where the A.P.H.C. is running at present from the last couple of years which is evident from a perusal of the Letters of the Mukhiya Dated 24.09.2024 and 17.12.2024.

18. That in response to para 13 of the instant writ it is most respectfully stated that the construction of the A.P.H.C. has already started in Surgahiya. Hence, this tussle between the Sarpanch and the Mukhiya can only lead to a situation in which the benefit of the public at large is jeopardised.”

3. A counter affidavit has also been filed on behalf of respondent No. 5, the relevant portions of which are extracted hereinbelow:

“6. That Sri Sanjiv Bhushan, the Hon'ble Mukhiya of Gram Panchayat Raj, Mahuawa sent a Letter bearing Letter No. 09 dated 18.06.2022 to the Civil Surgeon-cum-Chief Medical Officer, Sitamarhi regarding transfer of place of Additional Health Centre/Health Centre, Mahuawa, Anchal-Bathnaha, District-Sitamarhi.

7. That in the light of the abovementioned



letter of the Mukhiya, Gram Panchayat Raj, Mahuawa the In- charge Medical Officer, Community Health Centre, Bathnaha was directed by the Civil Surgeon-cum- Chief Medical Officer, Sitamarhi vide Letter No. 1963 dated 25.06.2022 to make physical verification with regard to transfer of place of the Additional Health Centre/Health Centre Mahuawa and to submit clear report.

8. That pursuant to the abovementioned direction of the Civil Surgeon-cum-Chief Medical Officer, Sitamarhi the In-charge Medical Officer, CHC, Bathnaha made spot inspection with the Hon'ble Mukhiya, Gram Panchayat Raj, Mahuawa and submitted his report dated 13.07.2022 of the Hon'ble Mukhiya vide Letter No. 275 dated 18.07.2022 with an opinion that the work related to hospital would be conducted in Village-Lachhua under Gram Panchayat Raj, Mahuawa, for which a place had been made available by the Hon'ble Mukhiya of Gram Panchayat Raj, Mahuawa.

9. That in the light of the abovementioned report the In-charge Medical Officer, CHC, Bathnaha was directed by the Civil Surgeon-cum-Chief Medical Officer, Sitamarhi vide Letter No. 2287 dated 22.07.2022 to conduct the Additional Primary Health Centre in Harijan Baithka, Lachhua (Mahuawa) temporarily till new construction of the decrepit building of the Additional Health Centre, Mahuawa.

20. That the Civil Surgeon-cum-Chief Medical Officer, Sitamarhi vide Letter No. 4094 dated 18.09.2024 called for report from Circle Officer, Bathnaha about availability of proper land for construction of Health Centre established in Gram Panchayat Mahuawa copy of which was sent to In-charge Medical Officer, CHC, Bathnaha, Civil Surgeon- cum-Member Secretary, District Health Society, Sitamarhi/Sri Anil Kumar, the Hon'ble MLA, Bathnaha and the General Manager, BMSICL, Patna for information and necessary action.

21. That in the light of the applications submitted by the petitioner i.e. the Sarpanch of the Panchayat Samiti, Mahuawa and Ward Member as well



as the Letter sent by the Hon'ble MLA, Bathnaha and the Hon'ble MLC, Sheohar the Civil Surgeon-cum-Member Secretary, District Health Society, Sitamarhi was directed by the Civil Surgeon-cum- Chief Medical Officer, Sitamarhi vide Letter No. 5203 dated 28.09.2024 to take necessary action after due enquiry with regard to conduct the Health Centre, Mahuawa at proper place, copy of which was sent to the In-charge Medial Officer, CHC, Bathnaha directing therein to submit opinion after due verification about physical circumstances.

24. That in the light of the abovementioned Letter No. 405 dated 15.10.2024 of the In-charge Medical Officer, CHC, Bathnaha an order bearing Memo No. 5488 dated 19.10.2024 has been issued by the Civil Surgeon-cum-Chief Medical Officer, Sitamarhi whereby and wherein partial modification has been made in the Letter No. 2287 dated 22.07.2022 according to which permission has been provided to conduct the Additional Primary Health Centre in village-Mahuawa and Health Sub-Centre in village-Lachhua.

25. That as per the facts and circumstances mentioned in foregoing sub-paras of Para-1 it is evident that in the light of the applications submitted by the villagers of village-Mahuawa including the petitioner of the instant writ petition proper action has already been taken and till the date the additional health centre, Mahuawa has not been transferred in village-Surgahiya.

26. That so far the matter of the claim of the petitioner that houses of the SC/ST category people constructed under Indira Awas Yojna upon the land bearing Khata No. 417, Khesra No. 1213, 1214, 1215 situated in village-Surgahiya allotted to them by the Government authority vide Settlement Case No. 10/1984 and against such settlement purchas have been issued to them, have been demolished at 7:00 PM on 20.12.2024 is concerned, it is worth mentioning here that report has been called from the Circle Officer, Bathnaha by the Civil Surgeon-cum- Chief Medical Officer, Sitamarhi vide Letter No. 3073 dated



04.06.2025.”

4. On perusal of the statements made in the counter affidavits, it is evident that the encroachments over the land in question were removed after following the procedure prescribed under the Bihar Public Land Encroachment Act, 1956, and the construction of the Additional Primary Health Centre has already commenced pursuant to the permissions, reports and recommendations of the competent authorities.

5. In view of the discussions made above, we find no reason to pass any further order in the present writ application.

6. Accordingly, the writ application stands disposed of.

7. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, ACJ)

(Rajesh Kumar Verma, J)

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