

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5868 of 2025

1. Vijendra Kumar @ Vijendra Kumar Yadav Son of Ram Chandra Rai, Elected Mukhiya of Panchayat is concerned (Posua Pataniya Panchayat), Sitamarhi. Resident of village- Posua Patania, P.S. - Riga, District- Sitamarhi.
2. Rajnarayan Rai, Son of Nandlal Ray, Elected Member Ward No. - 13, resident of village- Posua Patania, P.S. - Riga, District- Sitamarhi.
3. Dinesh Sah, Son of Dharkhan Sah, Elected Member Ward No. - 12, resident of village- Posua Patania, P.S. - Riga, District- Sitamarhi.
4. Dinesh Rai, Son of Subai Rai, Elected Member Ward No. - 10, resident of village- Posua Patania, P.S. - Riga, District- Sitamarhi.
5. Shila Devi, Wife of Sikindra Paswan, Elected Member Ward No. - 11, resident of village- Posua Patania, P.S. - Riga, District- Sitamarhi.
6. Kaushalya Devi, Wife of Munna Kumar Yadav, Elected Member Ward No. - 09, resident of village- Posua Patania, P.S. - Riga, District- Sitamarhi.
7. Ram Udar Ray, Son of Premiral Ray, Elected Member Ward No. - 04, resident of village- Posua Patania, P.S. - Riga, District- Sitamarhi.
8. Ashutosh Kumar, Son of Mukesh Prasad Yadav, Elected Member Ward No. - 05 (Up Mukhiya), resident of village- Posua Patania, P.S. - Riga, District- Sitamarhi.
9. Chandrakala Devi, Wife of Ram Uday Ray, Elected Member Ward No. - 6, resident of village- Posua Patania, P.S. - Riga, District- Sitamarhi.
10. Lalita Devi, Wife of Bigu Thakur, Elected ward Member, resident of village- Posua Patania, P.S. - Riga, District- Sitamarhi.
11. Roja Khatun, Wife of Taslim Sah, Elected Ward Member resident of village- Posua Patania, P.S. - Riga, District- Sitamarhi.

... .. Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Panchayat Raj Department of Bihar, Patna.
3. The Additional Chief Secretary, Building Construction Department Govt. of Bihar, Patna.
4. The Additional Secretary, Land Reform Department, Govt. of Bihar, Patna.
5. The Divisional Commission, Tirhut Division, Muzaffarpur.
6. The District Magistrate, Sitamarhi.
7. The Deputy Development Commissioner, Sitamarhi.
8. The District Panchayat Raj Officer, Sitamarhi.
9. The Block Development Officer, Riga Block, Sitamarhi.
10. The Circle Officer, Rega Block, Sitamarhi.

... .. Respondents

Appearance :



For the Petitioners : Mr. Shashi Bhushan Kumar, Advocate
For the Respondents : Mr. P.K. Shahi, Advocate General

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

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

3 25-11-2025 In the instant petition, the petitioners pray for the following relief(s):-

“I. For issuance of appropriate writ to restrain the respondents not to construct Government Panchayat Bhawan for Posua Patania Panchayat on the land having Thana No.-240, Revenue village- Khairwa, Block +Circle:- Riga, Sitamarhi due to the fact that said land is not suitable for the construction of Government Panchayat Bhawan as the same Contrary to the check list provided for the selection of land for the Panchayat Bhawan and also on the ground that the same land is on the bank of the old stream of the River Bagmati and also due the fact that major portion of the land upon which Construction is going on is of the nature of Raiyati land.

II. For issuance of writ of Mandamus Commanding the respondents to construct the Panchayat Bhawan of the Posua Patania Gram Panchayat on the land Revenue Village- Posua Patania Having Thana No.-235, Khata No.-184, Khesra No.-923,967,968,994 having area of 109 decimals which is Government Land and is suitable for the construction of Panchayat



Bhawan in all Corner and also on the ground that said land is selected for construction in gram Sabha meeting.

III. For the other reliefs in the facts & circumstances of the case.”

2. A counter affidavit has been filed on behalf of learned counsel for the Respondent Nos.5 to 10 and in the said affidavit, the following statements have been made in paragraph Nos.5 to 13:-

“5. That at the outset it is humbly submitted that the land pertaining to Khata No. 184, Khesra No. 933, 967, 968 and 994 which has been proposed by the Aam Sabha is recorded in the name of deity Shree Ram Janaki Ji. Hence, the said land cannot be selected for the purpose of construction of Panchayat Sarkar Bhawan.

6. That it is further humbly submitted that the Hon’ble Division Bench of this Hon’ble Court vide order dated 09.12.2023 passed in CWJC No.23833 of 2013 observed that-

“We are of the considered opinion that location of Panchayat Bhawan is more of an executive policy matter and it is not for us to decide whether one location is better than the other. There is no complaint for violation of any statutory provision.

If petitioners opine that there are suitable lands available where they would like the Panchayat Bhawan to be constructed, it is for them to



pursue matters before the executive about which we make no observation.

The writ application stands disposed.”

7. That the Hon’ble Division Bench of this Hon’ble Court in CWJC No.3282 of 2023 vide order dated 07.04.2023 dismissed the writ application with following observation.

“Whether the Panchayat Sarkar Bhawan is constructed at site A or B is an issue best left to the people’s representatives in the local self government institutions as well as the local authorities to decide based on various factors/parameters. Such a decision is essentially a matter of policy.

This Court is, therefore, not inclined to exercise its discretionary jurisdiction in respect of such policy matters.

The writ petition is misconceived and is accordingly dismissed.”

8. That the land selected for the purpose construction of Panchayat Sarkar Bhawan by the executive is fit for that very purpose as that very land is level ground well connected with mettaled road.

9. That the departmental instructions provide that if land is unavailable in the headquarters of the concerned Gram Panchayat, land in nearby village can be selected for the construction of the Panchayat Sarkar Bhawan. Since, any appropriate government land in the village Poshua Patania was not available, appropriate land was selected in the nearby village for the



construction of Panchayat Sarkar Bhawan upon which the construction of Panchayat Sarkar Bhawan is in progress.

10. That the land being proposed by the petitioner is in the name of deity Shree Ram Janaki Ji and the construction of the Panchayat Sarkar bhawan can be made either on the land belonging to Government of Bihar, or the land donated to the Government of Bihar in absence of availability of Government Land. Hence, the decision for construction of Panchayat Sarkar Bhawan on the land belonging to deny Shree Ram Janaki Ji cannot be taken.

11. That the land being proposed by petitioners herein is in the name of deity Shree Ram Janaki Ji. Hence, the said land cannot be used for the construction of Panchayat Sarkar Bhawan. The Panchayat Sarkar Bhawan is duly being constructed in the nearby village as there is an unavailability of the appropriate government land in the village Poshua Patania. Furthermore, it is being reiterated here that the departmental instructions specifically provides that if land is unavailable in the headquarters of the concerned Gram Panchayat, land in nearby villages can be selected for the construction of the Panchayat Sarkar Bhawan.

12. That the land selected for the construction of Panchayat Sarkar Bhawan of Poshua Patania is a level ground, well connected with metalled road and situated in the nearby village. Hence, the land selected through executive decision is



appropriate for the construction of Panchayat Sarkar Bhawan, and there is no reasonable possibility that the old stream of Bagmati River can either damage the Panchayat Sarkar Building or can make it inconvenient for the local people to reach there.

13. That it is most respectfully stated that the Hon'ble Patna High Court in several judgments have held that the location of the Panchayat Bhawan is for the executive to decide and not for the court to supplement its opinion.”

3. Further, a counter affidavit has been filed on behalf of Respondent No.3. The following statements have been made in paragraph Nos.9 to 15 in the counter affidavit:-

“9. That at the very outset it is humbly submitted that the present writ petition is fit to be dismissed in light of observation made by the Divisional Bench of this Hon'ble Court in judgment dated 20.06.2023 of CWJC No. 8361 of 2023 (Mahendra Singh vs. The State of Bihar and Others) wherein it was observed that:

“Further in the opinion of this Court, the decision with respect to construction of Government buildings like the Panchayat Sarkar Bhawan etc., which is carried out in the furtherance of the policy decision of the State Government cannot be a subject matter of public interest litigation. The court finds no merit in the case of the petitioner. The writ



application is dismissed."

10. That in the matter of Naveen Kumar Ram and Others disposed vide order dated 07.04.2023 passed in C.W.J.C. No. 3282 of 2023, the Hon'ble Court has made it clear that:

"Whether the Panchayat Sarkar Bhawan is constructed at site A or B is an issue best left to the people's representatives in the local self government institutions as well as the local authorities to decide based on various factors/parameters. Such a decision is essentially a matter of policy. This Court is, therefore, no inclined to exercise its discretionary jurisdiction in respect of such policy matters."

11. That it is relevant to bring on record that in CWJC No. 3280 of 2024 (Krishna Deo Kumar Vs. The State of Bihar and Others) in which while passing the judgment on 23.02.2024 the Hon'ble Divisional Bench of this Court has already observed that:

"It is worth noting that so far the construction of Panchayat Sarkar Bhawan is concerned, the same is within the exclusive jurisdiction of the Gram Panchayat and a decision as to its situs lies entirely within the domain of Panchayat concerned and the State Government has exclusive jurisdiction to take a decision in this regard."

12. That recently in the matter of CWJC No. 3127 of 2025 (Mahima Singh and Others vs. The State of Bihar and Others) similar relief



was sought but the same was dismissed vide judgment dated 20.02.2025.

13. That it is humbly submitted that vide Letter No. 1997 dated 31.07.2024 of District Magistrate, Sitamarhi the above said land was identified for construction of Panchayat Sarkar Bhawan a copy of which was served to the Executive Engineer, Sitamarhi.

14. That it is noteworthy to mention here that vide decision of the Departmental Tender Committee dated 20.01.2025, the work of construction of 01 (one) unit Panchayat Sarkar Bhawan in Posua Potaniya Panchayat at Riga Block in District Sitamarhi was allotted to the lowest bidder "M/s Kabbu Khirhar", the above said decision was accordingly communicated to Superintending Engineer, Building Circle, Muzaffarpur by Letter No. 859 dated 22.01.2025 of Chief Engineer, North that the above said decision was accordingly communicated to Executive Engineer, Building Division, Sitamarhi by the Superintending Engineer, Building Circle, Muzaffarpur vide letter no. 116 dated 24.01.2025.

15. That it is further submitted that in view of the above departmental direction M/s Kabbu Khirhar was issued a Letter of Acceptance and subsequently a provisional work order to start the work was also issued vide Letter No. 286 dated 31.01.2025. In pursuance to the same the work of construction of Panchayat Sarkar Bhawan is already in progress and any



interference in the same may ultimately led to wastage of public money.”

4. Upon consideration of materials on record, it is evident that there is no specific assertion on behalf of the petitioners regarding the distance of the *Panchayat Bhawan* in question from the river.

5. Further, upon consideration of the statements made in the counter affidavit, it is noteworthy that the construction is already in progress.

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

7. Accordingly, the present writ petition stands disposed of.

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

(Sudhir Singh, ACJ)

(Rajesh Kumar Verma, J.)

Gaurav Kumar,
Ibrar/-

U			
---	--	--	--

