

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4127 of 2026

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Rajan Jha S/o Devendra Jha, R/o Village and P.O.- Kasrour, Kasraund,
Kasraur P.S.- Ghanshyampur, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar Patna through the Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
2. Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
3. Superintending Engineer, Western Koshi Canal Division, Darbhanga, Water Resources Department
4. Executive Engineer, Western Koshi Canal Division, Darbhanga.
5. District Forest Officer, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kaushik Deo, Adv.

For the Respondent/s : Mr. P K Shahi, Advocate General

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 24-04-2026 This writ petition has been filed by way of Public

Interest Litigation by Rajan Jha seeking following relief:-

“(i) For direction to the Principal Secretary, Department of Water Resources, Govt. of Bihar, Patna not to construct a weir on the link stream of Kamla river in Mouza korthu within kasrour Basauli Panchayat, PS-Gaura Bouram, Dist.- Darbhanga as it will severely cause environmental and ecological problems causing serious health issues also to the local people.”



2. *Prima facie*, after going through the averments made in the writ petition, we do find that the matter pertains to technical aspects regarding construction of “weir” on the link stream of Kamla River, under the notification issued by Water Resources Department, Government of Bihar.

3. The Court has time and again cautioned that if the decision of the State Government is based on the opinion of the Experts, reflected from the project report prepared by technocrats, duly accepted and acknowledged by the State, it will have to be given due credence, unless it is inconsistent with the Constitution and the laws or arbitrary or highly irrational. The aforesaid settled legal principle has been reiterated time and again. It would be worth benefiting to quote some relevant paragraphs of decision rendered by the Hon’ble Supreme Court in the case of ***Centre for Public Interest Litigation -Vrs.- Union of India, reported in (2016) 6 Supreme Court Cases 408 (Paragraphs- 21, 22, 23 and 24).***

“21. Such a policy decision, when not found to be arbitrary or based on irrelevant considerations or mala fide or against any statutory provisions, does not call for any interference by the courts in exercise of power of judicial review. This principle of law is ingrained in stone which is stated and restated time and again by this Court on numerous occasions. In *Jal Mahal Resorts (P) Ltd. v. K.P.*



Sharma [Jal Mahal Resorts (P) Ltd. v. K.P. Sharma, (2014) 8 SCC 804], the Court underlined the principle in the following manner : (SCC pp. 861-62, paras 137-38)

“137. From this, it is clear that although the courts are expected very often to enter into the technical and administrative aspects of the matter, it has its own limitations and in consonance with the theory and principle of separation of powers, reliance at least to some extent to the decisions of the State authorities, specially if it is based on the opinion of the experts reflected from the project report prepared by the technocrats, accepted by the entire hierarchy of the State administration, acknowledged, accepted and approved by one Government after the other, will have to be given due credence and weightage. In spite of this if the court chooses to overrule the correctness of such administrative decision and merits of the view of the entire body including the administrative, technical and financial experts by taking note of hair splitting submissions at the instance of a PIL petitioner without any evidence in support thereof, the PIL petitioners shall have to be put to strict proof and cannot be allowed to function as an extraordinary and extra-judicial ombudsman questioning the entire exercise undertaken by an extensive body which includes administrators, technocrats and financial experts. In our considered view, this might lead to a friction if not collision among the three organs of the State and would affect the principle of governance ingrained in the theory of separation of powers. In fact, this Court in



M.P. Oil Extraction v. State of M.P. [*M.P. Oil Extraction v. State of M.P.*, (1997) 7 SCC 592], at p. 611 has unequivocally observed that : (SCC para 41)

‘41. ... The power of judicial review of the executive and legislative action must be kept within the bounds of constitutional scheme so that there may not be any occasion to entertain misgivings about the role of judiciary in outstepping its limit by unwarranted judicial activism being very often talked of in these days. The democratic set-up to which the polity is so deeply committed cannot function properly unless each of the three organs appreciate the need for mutual respect and supremacy in their respective fields.’

138. However, we hasten to add and do not wish to be misunderstood so as to infer that howsoever gross or abusive may be an administrative action or a decision which is writ large on a particular activity at the instance of the State or any other authority connected with it, the Court should remain a passive, inactive and a silent spectator. What is sought to be emphasised is that there has to be a boundary line or the proverbial “Laxman rekha” while examining the correctness of an administrative decision taken by the State or a Central authority after due deliberation and diligence which do not reflect arbitrariness or illegality in its decision and execution. If such equilibrium in the matter of governance gets disturbed, development is bound to be slowed down



and disturbed specially in an age of economic liberalisation wherein global players are also involved as per policy decision.”

22. Minimal interference is called for by the courts, in exercise of judicial review of a government policy when the said policy is the outcome of deliberations of the technical experts in the fields inasmuch as courts are not well equipped to fathom into such domain which is left to the discretion of the execution. It was beautifully explained by the Court in *Narmada Bachao Andolan v. Union of India* [*Narmada Bachao Andolan v. Union of India*, (2000) 10 SCC 664] and reiterated in *Federation of Railway Officers Assn. v. Union of India* [*Federation of Railway Officers Assn. v. Union of India*, (2003) 4 SCC 289] in the following words : (SCC p. 289, para 12)

“12. In examining a question of this nature where a policy is evolved by the Government judicial review thereof is limited. When policy according to which or the purpose for which discretion is to be exercised is clearly expressed in the statute, it cannot be said to be an unrestricted discretion. On matters affecting policy and requiring technical expertise the court would leave the matter for decision of those who are qualified to address the issues. Unless the policy or action is inconsistent with the Constitution and the laws or arbitrary or irrational or abuse of power, the court will not interfere with such matters.”

23. Limits of the judicial review were again reiterated, pointing out the same position by the courts in England, in *G. Sundarrajan v.*



Union of India [G. Sundarrajan v. *Union of India*, (2013) 6 SCC 620] in the following manner : (SCC p. 646, para 15)

“15.1. Lord MacNaughten in *Vacher & Sons Ltd. v. London Society of Compositors* [*Vacher & Sons Ltd. v. London Society of Compositors*, 1913 AC 107 : (1911-13) All ER Rep 241 (HL)] has stated : (AC p. 118)

‘... Some people may think the policy of the Act unwise and even dangerous to the community. ... But a judicial tribunal has nothing to do with the policy of any Act which it may be called upon to interpret. That may be a matter for private judgment. The duty of the court, and its only duty, is to expound the language of the Act in accordance with the settled rules of construction.’

15.2. In *Council of Civil Service Unions v. Minister for the Civil Service* [*Council of Civil Service Unions v. Minister for the Civil Service*, 1985 AC 374 : (1984) 3 WLR 1174 : (1984) 3 All ER 935 (HL)] (AC p. 414 : All ER p. 954), it was held that *it is not for the courts to determine whether a particular policy or particular decision taken in fulfilment of that policy is fair. They are concerned only with the manner in which those decisions have been taken, if that manner is unfair, the decision will be tainted with what Lord Diplock labels as “procedural impropriety”*.

15.3. This Court in *M.P. Oil Extraction v. State of M.P.* [*M.P. Oil*



Extraction v. State of M.P., (1997) 7 SCC 592] held that unless the policy framed is absolutely capricious, unreasonable and arbitrary and based on mere ipse dixit of the executive authority or is invalid in constitutional or statutory mandate, court's interference is not called for.

15.4. Reference may also be made of the judgments of this Court in *Ugar Sugar Works Ltd. v. Delhi Admn.* [*Ugar Sugar Works Ltd. v. Delhi Admn.*, (2001) 3 SCC 635] , *Dhampur Sugar (Kashipur) Ltd. v. State of Uttaranchal* [*Dhampur Sugar (Kashipur) Ltd. v. State of Uttaranchal*, (2007) 8 SCC 418] and *Delhi Bar Assn. v. Union of India* [*Delhi Bar Assn. v. Union of India*, (2008) 13 SCC 628].

15.5. We are, therefore, firmly of the opinion that we cannot sit in judgment over the decision taken by the Government of India, NPCIL, etc. for setting up of KKNPP at Kudankulam in view of the Indo-Russian Agreement.”

(emphasis in original)

24. When it comes to the judicial review of economic policy, the courts are more conservative as such economic policies are generally formulated by experts. Way back in the year 1978, a Bench of seven Judges of this Court in *Prag Ice & Oil Mills v. Union of India* [*Prag Ice & Oil Mills v. Union of India*, (1978) 3 SCC 459 : AIR 1978 SC 1296 : 1978 Cri LJ 1281] carved out this principle in the following terms : (SCC p. 478, para 24)

“24. We have listened to long arguments directed at showing us that producers and sellers of oil in various



parts of the country will suffer so that they would give up producing or dealing in mustard oil. It was urged that this would, quite naturally, have its repercussions on consumers for whom mustard oil will become even more scarce than ever ultimately. We do not think that it is the function of this Court or of any court to sit in judgment over such matters of economic policy as must necessarily be left to the government of the day to decide. Many of them, as a measure of price fixation must necessarily be, are matters of prediction of ultimate results on which even experts can seriously err and doubtlessly differ. Courts can certainly not be expected to decide them without even the aid of experts.”

4. Having carefully gone through the above referred decision and considering the nature of relief sought for, we are of the view that the writ petition lacks any merit and any interference would have an adverse effect on public interest.

5. Accordingly, the writ petition stands disposed off.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

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