

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10864 of 2018

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Arvind Kumar Yadav S/o Shiv Shankar Yadav, Resident of village- Larma
PO.- Karmnasa, P.S.- Durgawati, District- Bhabhua Kaimur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Water Resources Department Government of Bihar, Patna.
3. The Dy. Secretary Water Resources Department, Government of Bihar, Patna.
4. The Engineer-in-Chief, Water Resources Department Government of Bihar, Patna.
5. The Chief Engineer, Water Resources Department Dehri. Bihar.
6. The District Magistrate, Bhabhua District- Bhabhua Kaimur.
7. The Superintending Engineer Water Road Circle Bhabhua Bihar.
8. The Executive Engineer, Water Road Division, Mohania Bihar.
9. The Executive Engineer, Jamania Pump Nahar Division, Ramgarh, Bihar.
10. The Circle Officer, Durgawati, District- Kaimur Bhabhua.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharendra Kumar, Adv.
For the Respondent/s : Mr. Vikash Kumar- Sc11

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

6 09-02-2026 Heard Mr. Dharendra Kumar, learned counsel for the

petitioner and the State.

2. The present application has been preferred for the
following relief(s):

*(i). For quashing the letter contain
in memo no 419 dated 12.3.18 issued under
the signature of Chief engineer water
resources department Dehri, where by the
chief engineer rejected the claim of the*



petitioner even without deciding the classification of displaced persons as per notification /scheme on baseless ground observing that there is 0.7 Acres of land is recorded in the name of grandfather of the petitioner and 0.56 Acre land recoded in the name of mother of the petitioner therefore claim of the petitioner that his entire land has been acquired is not correct.

(ii). For direction to respondents' authority to appoint the petitioner on any class IV post under resolution no 1212 dated 18.9.13 issued by the then secretary of the department, as the petitioner is displaced person his entire land has been taken by the water Resources Department Government of Bihar for Nahar project.

(iii). For any other relief reliefs for which the petitioner may be found entitled.

3. If the writ petitions and the contempt petitions are added, this is the fifth time that the petitioner has knocked the doors of the Patna High Court. The petitioner's family own a piece of land bearing Khata No.- 109, Khesra No. 505 at Ramgarh under Durgawati Circle in the district of Kaimur which was taken over by the State of Bihar for **Larma Pump Nahar Project**.

4. This case is based on the **Resolution No. 1212** dated **18.09.1993** issued by the **Water Resources Department** under the signature of its **Commissioner-cum-Secretary, Water Resources**



Department, Bihar, Patna (Annexure- P/1) wherein those persons whose land were taken for different projects, four categories have been made and those who come under this category have to be considered for Class-III/Class IV post.

5. It seems the petitioner was minor at the time of the acquisition of the land and later upon turning major years later, he based his case on the said resolution and approached the authorities. Ultimately, he moved before this Court in **CWJC No. 3461 of 2009 (Arvind Kumar Yadav Vs. State & ors.)**. It was disposed of on **24.03.2009** directing the respondent no. 9, the Executive Engineer, Jamania Pump Nahar Division, Ramgarh to take decision (Annexure-P/7).

6. As usual, the authority failed to take a decision which followed the **MJC No. 3828 of 2012** (Annexure-P/14). Immediately thereafter, the respondents came into action and vide orders dated **10.08.2018** (Executive Engineer, Jamania Pump Canal Division, Ramgarh) and **13.08.2013** (Chief Engineer Water Resources Department, Dehri) rejected the claim of the petitioner (Annexure- P/12 and P/13 to the petition).

7. Accordingly, the MJC No. 3828 of 2012 came to be disposed of on 11.09.2013 allowing the petitioner to assail the order (Annexure- P/14). This followed **CWJC No. 24087 of 2013 (Arvind Kumar Yadav vs. State of Bihar & Ors.)**.



8. A Co-ordinate Bench of this Court disposed it of on **18.07.2016** taking note of the fact that the legal rights of the petitioner vested in the said resolution dated 1993 has been breached and accordingly, wanted reconsideration by the Competent/appropriate authority of the Water Resources Department, Bihar, Patna in accordance with law (Annexure 15 to the writ petition).

9. Once again, the delayed decision led to filing of this **MJC No. 256 of 2018** and as usual, fresh decision came on 12.03.2018 (Annexure-P/28) after which the aforesaid contempt petition was disposed of on **08.05.2018** allowing the petitioner to act in accordance with law (Annexure-P/29).

10. The memo no. **419 dated 12.03.2018** was issued by the Chief Engineer, Irrigation Division, Water Resources Department, Dehri is under challenge is now under challenge in the present writ petition.

11. Learned counsel for the petitioner has once again taken this Court to the said **resolution no. 1212 dated 18.09.1993** with specific reference to category 3 to show that where the 50 per cent to 74 per cent of the land has been taken over, still, the family is entitled for consideration of appointment. He thereafter, has taken this Court to the second supplementary counter affidavit filed on behalf of the respondent nos. 5, 7 and 9 duly signed by the



Executive Engineer, Jamania Pump Canal Division, Mohania with reference to paragraph 10 to show that the respondents have accepted that he comes under category 3.

12. The submission is that whether in view of the said acceptance by the respondents that the petitioner comes under category 3 of the resolution no. 1212 dated 18.09.1993, the entitlement of Class-IV post has to be considered by the respondent authorities or not.

13. The State has taken this Court to the order in question to show that the petitioner is not a landless person rather it has come to the notice of the authorities that while **0.67 acres** of the land of the grandfather of the petitioner was taken over, still there are certain lands in the name of his grandfather (0.07 acre) and mother (0.56 acre) (totaling **0.63 acre of land**) and as such, he cannot claim himself to be a landless person.

14. Learned counsel for the petitioner submits that even going by the said finding, he still comes under category 3 of the land.

15. A case has been made out, the petitioner has successfully shown himself to be under category 3 of the resolution no. 1212 dated 18.09.1993. The State respondents have also come forward to support the said contention that he comes under category 3 of the resolution no. 1212 dated 18.09.1993.



16. In that background, the question that the petitioner has put forward before this Court is as to whether those coming under category 3 of the resolution no. 1212 dated 18.09.1993 has to be considered for appointment on Class-III/Class-IV post or not. This question has not been answered by the Chief Engineer, Water Resources Department, Dehri while passing the order in question (resolution no. 1212 dated 18.09.1993).

17. Since for a decade, the Executive Engineer, Jamania Pump Canal Division as also the Chief Engineer Water Resources Department, Dehri have failed to come to the conclusion, it would be appropriate that this matter be considered at the highest level i.e. the respondent no. 2, the Principal Secretary, Water Resources Department, Bihar, Patna. While considering the case of the petitioner, the respondent no. 2 has to overlook the earlier orders, cannot stamp on the said orders and the view expressed by him/her in the reasoned order must be independent of all the earlier orders/observations of either respondents or the Patna High Court and must explain the resolution no. 1212 dated 18.09.1993 vis-a-vis the categories that have been mentioned while deciding the case of the petitioner.

18. The petitioner shall be filing a fresh representation before the concerned respondent no. 2, the Principal Secretary, Water Resources Department, Patna, Bihar in next eight weeks



who shall be summoning fresh reports from the Circle Officer, Durgawati, Kaimur as also the Chief Engineer Water Resources Department, Dehri/ Executive Engineer, Jamania Pump Canal Division, Ramgarh and thereafter shall pass a reasoned order in question at an earliest.

19. The memo no. 419 dated 12.03.2018 (Annexure-P/28) issued by the Chief Engineer, Irrigation Division, Water Resources Department, Dehri stands quashed.

20. The writ petition is disposed of.

(Rajiv Roy, J)

Vijay Singh/-

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