

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2218 of 2023

Haji Md. Riyazuddin @ Mohammad Riyajuddin, S/o Shahbayan, R/o- Village Kaemnagar, P.O. - Kayamnagar, P.S. - Koilwar, District- Bhojpur.

... .. Petitioner/s

Versus

1. The Union of India Through Ministry of Road Transport and Highways, Government of India, New Delhi.
2. The Chief General Manager, National Highway, New Delhi.
3. The Project Manager, Koilwar-Bhojpur Four Lane, N.H. 30 and N.H. 84, Patna.
4. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
5. The State of Bihar through the Additional Chief Secretary, Revenue and Land Reforms, Government of Bihar, Patna.
6. The State of Bihar through the Additional Chief Secretary, Road and Construction Department, Government of Bihar, Patna.
7. The District Magistrate, Bhojpur at Arrah.
8. The District Land Acquisition Officer, Bhojpur, Arrah.
9. The Circle Officer, Koilwar, Bhojpur.
10. The Bihar State Sunni Waqf Board through the Chief Executive Officer, Bihar, Patna.
11. The Bihar State Minorities Commission through its Member Secretary, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs. Roona, Advocate
For the Respondent/s	:	Dr. K. N. Singh, Addl. S.G.
For the NHAI	:	Mr. Raghwanand, Advocate
For Respondent No.10	:	Mr. Md. Helal Ahmad, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)

Date : 06-04-2023

The petitioner claiming to be a public spirited person agitating the action of the respondents in Public Interest



for protection of Zinda Shah Saheed Baba Mazaar from its demolition and relocation.

2. It is submitted at the bar that there is an old and historical Mazaar of Zinda Shah Saheed Baba situated at Kayamnagar, Bhojpur on the four lane of National Highway No. 30 and 84 connecting Koilwar to Bhojpur. The local public of all communities pay great respect to this old and historic Mazaar Sharif since long time. However, on account of approval and ongoing construction of the aforementioned four lane National Highway 30 and 84, the authorities are bent upon to shift/relocate the Mazaar, in question, despite several representations before the competent authorities with a request to protect it and not to disturb the same.

3. The petitioner surprisingly by way of the Public Interest Litigation also challenging the notice dated 16.09.2022 issued by the District Magistrate, Bhojpur directing to relocate / shift the Mazaar before this Court.

4. Learned counsel for the petitioner also submits that the Mazaar is not a religious place, rather it is a place where a departed pious soul is buried, in such circumstances, it is quite inhuman to disturb or to change the location of the Mazaar. However, the petitioner is not opposed to construction of



National Highway, but is only concerned with the religious sentiments of the people at large and moreover when alternative measures are available like to make Diversion, Golambar or Flyover, the respondents should take steps to protect the sentiments of the followers from all faiths and religion. It is lastly submitted that the Mazaar, in question, is a Waqf property and without having any permission from the Bihar State Sunni Waqf Board, it cannot be demolished or shifted to any other place.

5. This Court after taking note of the aforementioned submissions requested all the concerned to convene a meeting so that a consensus may be arrived at amongst the stakeholders.

6. A counter affidavit has been filed on behalf of respondent no.7. Referring to the statements made in the counter affidavit, learned counsel for the State submitted that a meeting of all stakeholders, including learned Advocate for the petitioner and local community member, were called for by the Collector, Bhojpur and the same was held on 06.03.2023 so that after proper discussion and deliberation a consensus may be arrived at for the peaceful shifting of the Mazaar situated at Kayamnagar. The proceeding of meeting, as contained in Memo No. 194 dated 07.03.2023 has been brought on record.



7. From perusal thereof it appears that no consensus could be arrived at as the local people and its leader as well as learned Advocate for the petitioner were not ready for shifting of the Mazaar. The petitioner submitted his option in order to save the Mazaar being shifted to different place viz. Change in alignment, construction of Golambar, construction of Flyover and slope down the Mazaar. The authorities of the National Highway Authority of India, who were also present in the meeting have not found the option provided by the petitioner feasible, as the existence of the Mazaar, in question, falling in the alignment is causing great inconvenience and hindrance to the movement of traffic on the National Highway, which is High Speed Corridor and due to the structure, in question, it has become accident prone. Hence, the submission has been made on behalf of the respondents that there is no option but to shift the said Mazaar, as has been done in cases of large number of religious structures, which have been shifted earlier in this project.

8. At this stage, this Court thinks it apposite to state here that in a matter, dealing with the four lane Koilwar-Bhojpur National Highway NH 30 and 84 in C.W.J.C. No. 8344 of 2021 has directed the respondent authorities concerned to ensure that



all steps are taken expeditiously so that the project may be completed within the stipulated period.

9. In the aforementioned writ petition, this Court had also taken note of structures/ religious structures and has been pleased to observe as follows:

“We also notice that there are 14 structures which are required to be removed in the District of Buxar. We direct the District Magistrate, Buxar to forthwith take steps for removal of the same. Structures of religious places have to be removed more so in the light of the orders passed by Hon’ble the Apex Court in Special Leave to Appeal (Civil) No(s). 8519/2006, titled as Union of India Vs. State of Gujarat & Ors. [Orders dated 29.09.2009 and 31.01.2018]. The District Administration shall do this by also associating the local populace, lending the requisite sensitivity in the matter, but in all circumstances, such structures shall be removed.”

10. It would be also relevant to observe that in the light of the orders passed in SLP (C) No. 8519 of 2006 (Union of India Vs. State of Gujarat and Ors.) in exercise of powers conferred under Article 136 of the Constitution framed the Rules titled as “Bihar unauthorized religious structures, construction, survey and its regularization, relocation and removal Rules, 2013”. Even as per the aforesaid Rule no



religious structure situated at public place could be regularized, which causes hindrance in smooth trafficking in any of the manner. As per the orders of this Court, the Administration has attempted to arrive at an amicable solution by convening a meeting of the local populous; who were unrelenting the options put forth by the petitioner being not feasible, the construction of the road cannot be further delayed.

11. In view of the discussions made hereinabove, as also considering the importance and significance of the NH 30 and 84 High Speed Corridor, this Court does not find any substance in the present Public Interest Litigation and accordingly, it stands dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.04.2023
Transmission Date	

