

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 17536 of 2022

Based on the News Report dt. 14.12.2022 published in the newspaper Hindustan Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar.
2. The State of Bihar through the Principal Secretary Environment, Forest and Climate Change Department Govt. of Bihar, Patna.
3. The District Magistrate, Patna.
4. Bihar State Pollution Control Board, Patna through its Secretary.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vikash Kumar, SC-11
For the Respondent/s : Mr. Lalit Kishore (Ag)
For BSPCB : Mr. Abhimanyu Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

21 12-02-2026 As per the order dated 05.02.2026, the interim report has been filed by the Bihar State Pollution Control Board.

In the said report it has been mentioned as follows:-

“4.2.3. The carrying capacity (CC) approach, utilizing current emissions, meteorological data, and the advanced AERMOD model, has determined the allowable emission load required to meet both the 24-hour and annual air quality standards. The carrying capacity varies between



6,702 and 28,143 kg/day for PM2.5 and for PM10 varies between 10689 and 44315 kg/day, depending on daily and monthly meteorological conditions. It was observed that CC is lower during the winter months and higher from April to September. However, the carrying capacity was exceeded only during the May to July period, with total emissions reaching 15,419 kg/day for PM2.5 and for PM10 35500 kg/day. Therefore, significant emission reductions are necessary for the remaining months. Immediate control measures are recommended for MSW burning and brick kilns, with final emission reduction proposals based on the critical month.”

2. In the affidavit dated 26.11.2024 in paragraph no. 6,
it is stated as follows:-

“6. That number of initiatives have been taken for prevention and control of air pollution in the State of Bihar. The initiatives include for prevention and



control of vehicular emission by the Transport Department, Govt. of Bihar, development of City Gas Distribution Networks in Bihar by Oil Companies (GAIL India, IOCL and Think Gas) for supply of cleaner fuels (CNG/PNG), formulation of Bihar Fuel Policy on Pet Coke, restriction on use of furnace oil, coal and wood (in any form) as industrial fuel in the boiler (steam boiler) or any heating system in the industrial area and in other areas where the supply of CNG/PNG/LNG network has been developed by the oil companies by Bihar State Pollution Control Board, Patna vide notification no. 02, dated-12.03.2024, restriction of operation of brick kilns without converting into Cleaner Technology. Some of the initiatives taken is produced below: -

a) Transport Department, Govt. of Bihar has restricted plying of 15 years old government vehicles in the entire State till further order vide notification no. 8116,



dated-05.11.2019.

b) State Govt. has restricted plying of all old commercial vehicles above 15 years in the jurisdiction of Patna Municipal Corporation, Danapur Municipal Council, Kagaul Municipal Council and Phulwarisharif Municipal Council with immediate effect till further order vide notification no. 8145, dated-06.11.2019.

c) State Govt. has also restricted plying of diesel driven three wheelers (auto rickshaws) in the jurisdiction of Patna Municipal Corporation, Danapur Municipal Council, Kagaul Municipal Council and Phulwarisharif Municipal Council vide notification no. 8182, dated-07.11.2019 and Muzaffarpur & Gaya vide notification no. 3295, dated-11.05.2023 and further vide notification no. 3485, dated-17.05.2023.

d) The State has notified Bihar Clean Fuel Scheme, 2019. The scheme is being implemented in Patna, Muzaffarpur & Gaya.



Under this scheme one-time incentives are given for conversion of commercial diesel & petrol driven three wheelers into CNG driven vehicle (Rs 40,000/-), conversion of commercial diesel & petrol driven three wheelers into battery driven vehicle (Rs. 25,000/-) and retro-fittment of commercial petrol driven three wheelers into CNG driven vehicle (Rs. 20,000/-) vide notification no. 8183, dated-07.11.2019 and no. 8485, dated-17.05.2023.

e) The Transport Department vide notification no. 2146 dated 28.03.2023 has put ban on plying of diesel driven 'City Buses' and has launched incentive scheme to convert/retrofit the existing fleet of driven-driven 'City Buses' into cleaner fuel (CNG Buses), to check the air pollution in the Patna Urban Agglomeration.

f) The Transport Department vide notification no. 1219 dated 23.02.2024 has put ban on plying of diesel-driven buses/mini buses (including school buses) within



the limits of Patna Municipal Corporation, Danapur Municipal Council, Khagaul Municipal Council and Phulwarisharif Municipal Council with effect from 01.09.2024, in the interest of public safety and convenience considering the issue of air pollution in Patna Urban Agglomeration.

g) State has formulated Bihar Electric Vehicle Policy, 2023 for promoting for e-vehicle in the State.

h) A total of 158 electric buses, 37 hybrid diesel buses and 934 CNG buses have been introduced in the State by the Transport Department, Govt. of Bihar.

i) Vehicular emission testing centre has been increased to 1811 by the Transport Department, Govt. of Bihar to facilitate the testing of vehicular emission and issue Pollution Under Control (PUC) certificate.

j) National Vehicle Scrapping Policy notified by Ministry of Road Transport and Highways (MoRTH), GoI on 23rd September 2021 has been



adopted in the state. The Transport Department is in the process of setting up of Automatic Vehicle Fitness Centers and Scrapping Centers in the State for the effective implementation of the above said Policy. In first phase 20 licenses have been issued for Registered Vehicle Scrapping Facility (RVSF) across Bihar in light of notification no. 653(E) dated 23.09.2021 of the MoRTH, GOI. Provision of 15% and 25% tax rebate on new transport & non-transport vehicle registration for those who have scrapped their vehicle.

k) City Gas Distribution (CGD) networks in Bihar is being established by Oil Companies (GAIL India, IOCL & Think Gas) for supply of cleaner fuel namely Piped Natural Gas (PNG) to domestic, commercial and Industrial customers and Compressed Natural Gas (CNG) to transport sector. A total of 166 CNG outlets have been established in the State which includes 30 CNG stations at



Patna. A total of 192 connections (Industrial connection: 20 and Commercial connection: 172) has been established in the State of Bihar. Industrial connections include Gaya: 01, Begusarai: 02, Muzaffarpur: 05, Arwal: 02, Araria: 01, Aurangabad: 01 and Patna: 08. By implementation, this scheme for development of cleaner fuel supply network, there would be significant reduction in air pollution level.

l) A notification has been issued by the Bihar State Pollution Control Board on 25.11.2020. As per this notification, no new polluting industries under 22 categories shall be permitted to be established in the master plan area of Patna and Planning area of Muzaffarpur and Gaya. Further, those existing industrial units in the above demarcated area of Patna, Muzaffarpur and Gaya, have to comply with more stringent conditions before they are allowed for renewal of their Consent to Operate (CTO) from the State Pollution Control Board, failing which they may



have to shift their location to some other suitable location outside the demarcated area of the concerned Urban Local Body.

m) Bihar Fuel Policy on Pet coke and Furnace oil has been formulated in compliance with the order of the Hon'ble Supreme Court by the Department of Environment, Forest and Climate Change, GoB in June 2020. Use of Pet coke as industrial fuel is banned in the State.

n) Bihar State Pollution Control Board has restricted the use of furnace oil, coal and wood (in any form) as industrial fuel in the boiler (steam boiler) or any heating system in the Industrial area and in other areas where the supply of CNG/PNG/LNG network has been developed by the oil companies vide notification no. 02, dated-12.03.2024 (Bihar Gazette no. 685, dated-23.07.2024).

o) All the operational brick kilns in the State are directed to adopt and switch over to cleaner technology. In the State of Bihar



only those brick kilns which have converted into cleaner technology are permitted to operate. The brick kilns are monitored using Geo-AI technology supported by the UNDP. More than 80% of the existing brick kilns in the state have been converted into cleaner technology.

p) To control agricultural waste/stubble burning, the farmers are debarred from the benefits of subsidies/government schemes for three years for indulging in crop residue burning practices. Predominantly districts such as Rohtas, Kaimur, Buxar, West Champaran, etc. are found to be reporting more crop residue burning incidents.

q) Mechanical sweeping is being done in Patna continuously using 19 numbers of mechanical sweepers to control dust emission from the roads. In addition, to the above, water sprinkling and water mist spraying through anti-smog guns (12 nos.) and water sprinkler (13



nos.) are used for dust separation in Patna municipal area.

r) The State Board has awarded a study entitled "Emission Inventory, Source Apportionment and Carrying Capacity of Patna to Institute of Environment and Sustainable Development, BHU; Gaya to IIT-Patna and Muzaffarpur IIT-Delhi to study the sources of air pollution, proportional contribution from different sources and the capacity of the atmosphere to bear the load of air pollutants.

s) In order to reduce the fugitive emission from the construction activities/ sites, proper preventive measures viz. barricading of site, construction of wind breaking wall, covering/mounting with tarpaulin/ green net on scaffolding, water sprinkling system needs to be adopted at the site. The construction materials and Construction & Demolition waste should not be stored on the streets, roads. The construction and Demolition Waste



Management and the air pollution control measures to be adopted in the construction sector are regulated and monitored by the concerned Urban Local Bodies (Patna Municipal Corporation in case of Patna)."

3. In the supplementary counter-affidavit filed on behalf of respondent no. 4 (Bihar State Pollution Control Board) dated 07.01.2026 it is stated in paragraph nos. 5,6 and 7 as follows:-

5. That the instant matter was last heard on 18.12.2025, when this Hon'ble Court was pleased to observed that whether any study has been carried out to ascertain the sources and component of air pollution in State of Bihar or any city/district of State of Bihar.

6. That in this regard, it is stated that a "Dispersion Modelling based Emission Inventory & Source Apportionment Study" was conducted earlier. According to this study, the proportional contribution of various sectors



in PM2.5 in 2018 was as follows:

NACs	Transport	Domestic	Dust	Waste Burning	Industry	Brick Kiln	DG Set	Outside of the City
Patna	13.2%	23.8%	9.7%	8.7%	5.8%	5.6%	3.8%	29.3%
Gaya	21.5%	10.9%	11.3%	5.8%	0.1%	3.2%	2.9%	44.4%
Muzaffarpur	23%	10%	13%	6%	7%	2%	3%	37%

7. That further, in the year 2021, a study titled "Receptor Modeling based Source Apportionment Study of Ambient Particulate Matter in Patna City, Bihar, based on receptor model of ambient particulate matter was carried in Patna by the Energy and Resource Institute (TERI), New Delhi.

Estimation of percent fractional contributed by different source to any receptor and relating emission of pollutants from different sources to their quantitative impact on ambient air pollution is referred to as Source Apportionment of air pollution. In this study, data related to the proportional contribution of various sectors in PM10 and PM2.5 is



indicated as follows: -

Pollutant	Season	Transport	Biomass Burning	Road & Construction Dust	Refuse Burning	Industry /Brick Kiln	DG Set	Secondary Particular Matter
PM ₁₀	Summer	4%	9%	57%	7%	13%	1%	9%
	Winter	13%	14%	30%	6%	11%	3%	24%
PM ₂₅	Summer	7%	10%	29%	3%	27%	2%	22%
	Winter	18%	21%	5%	5%	10%	4%	38%

4. In the supplementary counter-affidavit filed on behalf of respondent no. 4 (Bihar State Pollution Control Board) dated 07.01.2026 in paragraph no. 9 it is stated as follows:-

“9. That the State has witnessed a consistent improvement in air quality and almost every city has been found to have lower average AQI in FY 2024-2025 compared to previous years. Further, the AQI assessment of Fy 2025-26 (till 31 December) also shows decisive improvement trends. The improvement in average AQI for the last few years in different cities of State of Bihar is produced in the table below:-

City	Average AQI			
	2022-23	2023-24	2024-25	2025-26 (as on 31 st Dec, 2025)
Patna	200	177	168	107
Muzaffarpur	181	169	142	80



Gaya	154	123	105	88
Bhagalpur	186	178	132	84
Hajipur	161	146	187	118
Araria	177	153	128	95
Arrah	178	165	100	75
Aurangabad	181	111	127	105
Begusarai	220	224	140	91
Bettiah	197	132	130	84
Bihar Sharif	189	106	117	113
Buxar	188	200	141	87
Chhapra	210	193	113	108
Katihar	213	162	103	80
Kishanganj	148	131	123	97
Manguraha	100	91	96	78
Motihari	171	134	104	84
Munger	193	153	121	74
Purnia	190	155	115	72
Rajgir	156	146	105	108
Saharsa	220	173	116	87
Samastipur	224	150	125	97
Sasaram	151	126	113	106
Siwan	212	153	129	103

From above, it may be seen that Average AQI for different cities of State of Bihar had been reducing.

Further, the AQI data for Patna for the three Months November, December and January of the year 2023, 2024 and 2025 (produced below), it can be seen that the daily AQI for the said months for Patna has improved significantly over the years.”



5. The learned counsel appearing for respondent no. 4 shows that as on 31st December, 2025, the average AQI was 107, therefore, there is improvement in the situation. However, on verification of AQI of today, it is found that it is more than 200. The learned counsel submits that the main reason of air pollution in the State of Bihar is on account of the road construction dust particles and second the vehicular pollution. So far vehicular pollution is concerned, it is stated in the affidavit dated 05.12.2025 in paragraph nos. 5, 6 and 7 as follows:-

“5. That number of initiatives have been taken for prevention and control of air pollution in the State of Bihar. The initiatives include for prevention and control of vehicular emission by the Transport Department, Govt. of Bihar, development of City Gas Distribution Networks in Bihar by Oil Companies (GAIL India, IOCL and Think Gas) for supply of cleaner fuels (CNG/PNG), formulation of Bihar Fuel Policy on Pet Coke, restriction on use of furnace oil, coal and wood (in any form) as industrial fuel in the boiler



(steam boiler) or any heating system in the industrial area and in other areas where the supply of CNG/PNG/LNG network has been developed by the oil companies by Bihar State Pollution Control Board, Patna vide notification no. 02, dated-12.03.2024, restriction of operation of brick kilns without converting into Cleaner Technology. Some of the initiatives taken is produced below:

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there would be significant reduction in air pollution level.

l) A notification has been issued by the Bihar State Pollution Control Board on 25.11.2020. As per this notification, no new polluting industries under 22 categories shall be permitted to be established in the master plan area of Patna and Planning area of Muzaffarpur and Gaya. Further, those existing industrial units in the above demarcated area of Patna, Muzaffarpur and Gaya, have to comply with more stringent conditions before they are allowed for renewal of their Consent to Operate (CTO) from the State Pollution Control Board, failing which they may have to shift their location to some other suitable location outside the demarcated area of the concerned Urban Local Body.

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Change, GoB in June 2020. Use of Pet coke as industrial fuel is banned in the State.

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waste/stubble burning, the farmers are debarred from the benefits of subsidies/government schemes for three years for indulging in crop residue burning practices, Predominantly districts such as Rohtas, Kaimur, Buxar, West Champaran, etc. are found to be reporting more crop residue burning incidents.

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r) The State Board has awarded a study entitled "Emission Inventory, Source Apportionment and Carrying Capacity of Patna to Institute of Environment and Sustainable Development, BHU; Gaya to IIT-Patna and Muzaffarpur IIT-Delhi to study



the sources of air pollution, proportional contribution from different sources and the capacity of the atmosphere to bear the load of air pollutants.

s) In order to reduce the fugitive emission from the construction activities/ sites, proper preventive measures viz. barricading of site, construction of breaking wind wall, covering/mounting with tarpaulin/ green net on scaffolding, water sprinkling system needs to be adopted at the site. The construction materials and Construction & Demolition waste should not be stored on the streets, roads. The construction and Demolition Waste Management and the air pollution control measures to be adopted in the construction sector are regulated and monitored by the concerned Urban Local Bodies (Patna Municipal Corporation in case of Patna).

6. That the State Board has further issued direction to all the District Magistrates under



section 31A of the Air (Prevention and Control of Pollution) Act, 1981 for prevention and control of air pollution. The directions include the implementation of City Specific Action Plan with Graded Response Action Plan, hold monthly review meeting of District Level Implementation Committee (DLIC); sensitize the general public regarding harmful effects of air pollution and elicit their support to control it; ensure dust control measures required to be undertaken by all project proponents, contractors, builders, person or authority undertaking construction and demolition activities in your city; ensure good traffic management including re-direction of traffic movement to avoid traffic congestion, ensure open burning of garbage/bio-mass is not done in the district, ensure stubble burning/ agricultural waste burning is not done in the district; ensure appropriate and timely action to remove road dust and silt recovered from the



drains regularly and ensure all the roads are dust free.

7. That recently a review meeting on Air quality monitoring and management in the State of Bihar was convened under the chairmanship of the Principal Secretary, DoEF&CC, Govt. of Bihar on 03.11.2025, wherein the status of air quality action and programs implemented for prevention and control of air pollution were reviewed and further necessary directions were issued for proper air quality management.”

6. In the affidavit dated 07.01.2026 in paragraph no. 8, it is stated as follows:-

“8. That on the basis of the aforesaid findings of the two studies the State Government initiated action against the plying of diesel vehicles and restricted 15 years old diesel driven commercial vehicles, 15 year old Government vehicles, Bihar Clean Fuel Scheme, 2019, was notified, under which one-time incentive were given for conversion of commercial diesel



and petrol driven three wheelers into CNG; State of Bihar has formulated Bihar Electric Vehicle Policy, 2023, for promoting e-vehicle in State of Bihar, Bihar State Pollution Control Board has directed the brick-kilns to adopt and switch over to cleaner technology and the brick-kilns which have converted into cleaner technology are only permitted to operate.

As of Dec, 2025 a total of 214 CNG outlets has been established and are being operated in the State of Bihar. Further, the plan to expedite the CNG Stations in Bihar as provided by the various entities (IOCL, BPCL, HPCL, GAIL, Think Gas, IOAGPL) involved in establishment of Compressed Gas Distribution (CGD) Network of the State has been provided to the answering respondent.”

7. The copy of the affidavit filed by the State Pollution Control Board has already been handed over to the learned counsel for the State. The learned counsel for the State seeks some further time to obtain specific instructions in



pursuance of the notification issued by the State in 2019 for restricting commercial vehicle older than 15 years old in the jurisdiction of the Patna Municipal Corporation, Danapur Municipal Corporation, Bhabua Municipal Council and Phulwari Sharif Municipal Council with immediate effect. The notification also applies to government vehicles older than 15 years. The State shall inform the court as to what steps have been taken for implementing the said notification and whether any fine has been collected in respect of violations. The concerned office has been directed to ensure that any fine recovered for such violations is utilised to spread awareness among the public regarding the use of such old vehicles through print and electronic media and other public platforms. The details of such measures shall be filed by way of an affidavit within two weeks, with a copy served upon the learned counsel for the Bihar State Pollution Control Board. The documentary proof regarding the steps taken for creating public awareness in that respect shall also be brought on records along with the affidavit. At this stage, on the advise of learned Advocate General, the Court appoints Mr. Amish Kumar, Advocate, as *amicus curiae* to assist Mr. Shambhu Sharan Singh in this matter. A copy of the entire record shall be provided to Mr.



Amish Kumar in a pen drive.

8.The matter is directed to re-listed on 13.03.2026,
indicating the name of the learned *amicus curiae* in the Cause
List.

(Sangam Kumar Sahoo, CJ)

(Alok Kumar Sinha, J)

Gaurav Sinha/-

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