

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1259 of 2024

In
Civil Writ Jurisdiction Case No.4961 of 2022

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The Chairman, Bihar Rajya Pul Nirman Nigam Limited & Ors.

... .. Appellant/s

Versus

Shambhu Prasad Gupta & Ors.

... .. Respondent/s

=====

with

Civil Writ Jurisdiction Case No. 4961 of 2022

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Shambhu Prasad Gupta

... .. Petitioner/s

Versus

The Union of India & Ors.

... .. Respondent/s

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Appearance :

(In Letters Patent Appeal No. 1259 of 2024)

For the Appellant/s : Mr. P.K. Shahi, Advocate General
Mr. Md. Nadim Seraj, Advocate

For the Respondent/s : Dr. K.N. Singh, ASG
Mr. Alok Kumar, CGC UOI
Mr. Shivaditya Dhari Sinha, Advocate
Mr. P.N. Shahi, Sr. Advocate
Mr. Satish Kumar Singh, Advocate
Mr. Anshay Bahadur Mathur, Advocate

(In Civil Writ Jurisdiction Case No. 4961 of 2022)

For the Petitioner/s : Mr. P.N. Shahi, Sr. Advocate
Mr. Satish Kumar Singh, Advocate

For the Respondent/s : Mr. Anshay Bahadur Mathur, Advocate
Mr. Md. Nadim Seraj, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

04 20-01-2025

A piquant situation has arisen for the reason of several proceedings remaining pending before a learned Single Judge, which in net effect has delayed even the commencement of the



work of construction of Road Over Bridge (ROB) at a particular place in the district of Saharsa.

2. One Shambhu Prasad Gupta had approached the High Court vide CWJC No. 4961 of 2022 seeking a direction to the respondents to review and shift the proposed plan of construction of ROB at Level Crossing No. 31 situated near Saharsa Railway Station from its present place to the Level Crossing No. 32, situated near the old bus stand, Ganjala or at some more convenient place/area or to shift or redesign the proposed approach road connecting the ROB to some other place by saving the main market place of Saharsa town.

3. The writ petition was entertained by the learned Single Judge, who thought it to be desirable to direct the respondents to discuss the issue with aforementioned Shambhu Prasad Gupta/writ petitioner and find out a solution.

4. We are afraid whether such objections by a citizen could have been entertained.

5. Nonetheless, considering the direction and the expectation of the learned Single Judge, a meeting was held but the writ petitioner was not called in that meeting.

6. However, the other part of the order dated 05.09.2022 indicates that the respondents were asked to bring



on record the decision taken by the Additional Chief Secretary, Road Construction Department and the other respondents on the next date of hearing.

7. The writ petition but was kept pending.

8. The records reveal that even though the writ petitioner was not called in any one of the meetings, an attempt was made by the authorities to review the plan and a proposal was formulated which was sent to the Railways for further confirmation before the process of construction could have been resumed. It further appears from the record that the Railways found such changed proposal to be untenable for very many reasons.

9. Thereafter a contempt petition was filed before the learned Single Judge vide MJC No. 2175 of 2023, which is also pending consideration.

10. However, in the meantime, a supplementary affidavit was filed in the writ petition on behalf of the State stating that in view of the observations made by the learned Single Judge on 05.09.2022, the respondents reviewed the possibilities of deviation from the alignment of the proposed plan and came up with a revised new alignment where under both arms of earlier alignments of the proposed plan at T point



junction of Shankar Chowk have been removed and now one new arm has been designed under the new alignment, which will pass towards Saharsa Railway Station via Vegetable Market, Saharsa. This was part of the General Arrangement for Drawing (GAD) of the new revised alignment for the proposed ROB.

11. The supplementary affidavit further indicated that efforts are afoot to sort out the other pending issues as well. The revised GAD was sent to the Railways for affirmation but as noted above the same was not approved.

12. The learned Single Judge vide order dated 28.11.2022, which is the subject order of appeal, extracted this part of the supplementary affidavit of the respondents and listed the matter for further hearing after three months with a direction that on the next date of hearing, the Corporation will inform the Court about the progress of the construction of the ROB as per new proposal.

13. Plainly speaking, we do not find any reason to understand that the order comes in the way of the respondents continuing with their construction process as no embargo has been placed in any one of the orders passed by the learned Single Judge, either in the writ petition or in the contempt



petition.

14. However, the impact of such orders and the pendency of the writ petition has prevented the respondents and the Railways in continuing with the process of construction of ROB which enures in nobody's favour.

15. There are certain limitations in reviewing the design of such projects. The safety requirements also have to be taken into account which perhaps cannot be adjudicated in any writ petition.

16. All that the writ petitioner can expect, in any circumstance, is that his grievance is put through the concerned authorities who would take a call and, if possible, formulate a solution which would neither be destructive of the plan nor would cause any inconvenience to the writ petitioner or many others as claimed.

17. We, therefore, request the learned Single Judge to decide all the issues and conclude the proceedings within a period of two weeks of the communication of this order to him.

18. To facilitate this process, we direct for the listing of CWJC No. 4961 of 2022 and M.J.C. No. 2175 of 2023 before the learned Single Judge, who is hearing the contempt petition, on 27.1.2025 within first five cases.



19. Let this appeal come up for consideration on
04.02.2025.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

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