

(1996) 12 PAT CK 0048
In the Patna High Court
Case No : C.W.J.C. No. 2290 of 1990

Arun Kr. Mukherjee

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 20-12-1996

Acts Referred:

Citation : (1997) 2 PLJR 785

Hon'ble Judges : N.K. Sinha, J;B.P. Singh, J

Bench : Division Bench

Advocate : B.K. Singh, for the Appellant; Yugal Kishore and Anup Kumar Sinha, for the Respondent

Judgement

1. While we were dealing with the traffic problem of the city of Patna, we are confronted with a peculiar situation that arises so often in the city of Patna resulting in the blockade of one of the main arteries, namely, Baily Road, Patna. In view of the vast expansion of Patna towards the west, the Baily Road is the main connecting road for persons coming to the city and going to their residences to the west of Patna. Persons coming to the High Court and those, who have to attend to their, work in the Secretariat and other Government offices have also to pass through the same Road. With a view to prevent processionists from invading the Secretariat, a blockade has been put up by the Government with folding gates, so that in case of need the procesionists can be prevented from crossing that point, on their way to the Secretariat and Raj Bhavan. Unfortunately, the said point on Bailey Road has acquired the dubious distinction of being called "Hartali Chawk; and it is understood by persons concerned that if they wish to sit on Dharna or protest against the actions or inactions of the Government, they have a right to squat on the road at that point, and to block the road, so that the public is inconvenienced and pressure is put on the Government to concede their demands. The situation at times is comical inasmuch as it is often seen that hardly 10 to 15 people with flags of different colours squat on the road and the road is immediately blocked. The

authorities immediately put the locks on the gates so that no traffic can pass through that Road. This is despite the fact that as against 15 or 20 agitationists, there are at times 50 to 100 Policemen to control them. Such impotence on the part of the State Government cannot be tolerated, particularly when illegal action on the part of such agitationists causes considerable inconvenience to the public at large. It is, perhaps, forgotten that in a democracy every citizen has to respect the rights of other citizens, and no right can be exercised in such a manner as to defeat the rights of Ors.. If any person or group of persons act in such a manner as to defeat the legitimate rights of Ors., the State machinery must intervene and take appropriate steps. This may entail use of force at times because if the agitationists or the processionists take the law into their hands, the State is left with no option but to bring them under control, if necessary, by use of force. Ever since the medieval period it is known that the only way to oppose force without authority, is to oppose force to it. If the agitationists insist on blocking the road, and it appears that the main Bailey Road has been blocked for the last about four days, the State administration cannot be an idle spectator. It is indeed a matter of shame that even the head of the State has to take a diversion to reach Raj Bhavan. All the officers of the Government, the Chief Minister, the Hon"ble Ministers and Judges of this Court as also other members of the public have to take a detour to reach their destinations. The alternative route is not adequate to take the burden of the increased traffic resulting in considerable inconvenience. This state of affairs must come to an end, and the law must assert itself with full rigour and vigour.

2. We, therefore, direct the State of Bihar as well as the District Magistrate, Patna, Senior Superintendent of Police and the Superintendent of Police, Traffic Patna to take immediate steps to see that the free flow of traffic on the Bailey road is restored forthwith and not later than two days from today.

3. The flanks of the Bailey Road are wide enough to accommodate the processionists and the agitationists. If so advised, the administration may put up barricades on both sides of the road and direct the processionists to lodge themselves in the space so provided. This will serve the twin purpose of the agitationists espousing their cause and expressing their protest, and at the same time would permit the members of the public to use the road freely. If, however, the processionists or the squatters do not heed to same advice, the State will have no alternative but to use minimum force necessary to clear the road, and to restore free flow of traffic. The agitationists must realise that they do not have a right to defeat the rights of Ors.. If their rights are so dear to them, so are the rights of citizens of Patna dear to them, and in this situation the administration must come to the aid of law. The obnoxious attitude acquired by the agitationists must be curbed, and in future as well the State administration will see to it that such situations are avoided. We, therefore, direct the State Government and its officers to immediately implement this order and restore free flow of traffic on the Bailey Road. We have made suggestions about the barricading flanks of the Bailey Road, but it is open to the administration to devise any other method to

achieve the objective.

Let a copy of this order be given to, A.A.G. 2 for necessary action and communication to the authorities concerned.