
(1998) 12 PAT CK 0042
In the Patna High Court
Case No : C.W.J.C. No. 2290 of 1990

Arun Kumar Mukherjee and Others

APPELLANT

Vs

The Stale of Bihar and Others

RESPONDENT

Date of Decision : 04-12-1998

Acts Referred:

Citation : (1999) 1 PLJR 252

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

Bench : Division Bench

Advocate : B.K. Singh, for the Appellant; G.P. Roy, for State and Rajendra Pd. Singh, for P.R.D.A., for the Respondent

Judgement

I.A. Nos. 3209 and 14366 of 1998.

1. The Petitioners contend that representations have been made to the District Magistrate on 15.9.1998 and 10.10.1998 for carving out a corridor and/or time schedule for the vehicles of the Petitioners to move to their destinations within the city of Patna. These are matters which the District Magistrate can deal with at her level having regard to the spirit of the order dated 19.5.1998 in C.W.J.C. No. 2290 of 1990, in particular paragraph No. 10 thereof. The primary objective sought to be achieved is to do away with the inconvenience caused to the members of the general public by entry of heavy commercial vehicles within the municipal limits of the city of Patna. In the case of industries a scheme has to be worked out so that the vehicles are able to reach their destinations within the city of Patna at reasonable times. It is for the District Magistrate to consider the convenience of the general public as also the convenience of the industries concerned, and work out and find out a method, so that with the least inconvenience to both, the objective is achieved. With these guidelines we leave it to the District Magistrate, Patna, to work out a proper scheme. We expect that she will be able to hold discussions with the Petitioners and other concerned industries and within a period of fortnight from the date on which a copy of this order is produced before her, she will be able to work out an appropriate scheme.

I.A. No. 8655 of 1998.

2. We had passed an order on 19.5.1998 regarding the Transport Nagar which was sought to be developed as a place where the transport agents could have their offices and depots for off-loading the goods coming to the city of Patna. We had noticed the hardship and inconvenience caused to the members of the public by the absence of such Transport Nagar outside the populated city of Patna. We had passed an order that after 31st July, 1998 no heavy vehicle carrying goods shall be permitted within municipal limits of the city of Patna without express permission of the District Magistrate or any officer authorised by the District Magistrate in this regard. The restriction, however, was not to apply to petrol or oil tankers which necessarily have to enter within the municipal limits to off-load the goods carried by them at the concerned stations. We had also directed the District magistrate to carve out a corridor for vehicles traversing through municipal limits of the city of Patna on way to their destinations. This order of the Court appears to have been challenged before the Supreme Court, and by order dated 22.7.1998 in S.L.P.(Civil) No. 5288 of 1998 the Hon'ble Supreme Court directed that the order shall remain suspended till further orders. It also appears that the matter was finally disposed of on 31.7.1998 and the SLP was dismissed, so that the order dated 19.5.1998 could have come into force. However, by our order dated 11th September, 1998 we gave an opportunity to the transport agents and their proprietors to apply for allotment of land in the Transport Nagar, so that the scheme proposed by the P.R.D.A. may be implemented. If the response was found to be encouraging v/e had assured that we shall pass suitable orders on October 9, 1998 putting the State of Bihar and P.R.D.A. to terms and prescribe the time schedule for completion of the development work in the Transport Nagar. We also recorded the assurance given by counsel for the P.R.D.A., reiterated by Additional Advocate General No. III, that the amount which shall be collected against the allotment of land in the Transport Nagar shall not be utilised for any other purpose except for the development of the Transport Nagar. We had, therefore, directed that till then the prohibitory order dated 19.5.1998 shall not operate. When the matter has come up before us today we find that as against 216 available plots and inspite of the existence of large number of transport agents in the city of Patna, only 21 such transporters have applied for allotment of land in the Transport Nagar, and on one pretext or the other they have avoided to apply for land in the Transport Nagar. The facts and circumstances reveal that not only the transport agencies and their proprietors, but even the P.R.D.A. and the Government of Bihar acting in collusion with them, are making an attempt to defeat the orders of this Court. The transporters make a grievance that the land being allotted at the rate of Rs. 3,00,000/-(three lakhs) per katha approximately and future development charge of about a lakh of rupees per katha is exorbitant, particularly for a land which is even today water logged, and cannot be used for the purpose of either parking a truck or offloading goods from a truck. Counsel for P.R.D.A. submits that this land has been acquired by the Government of Bihar for his purpose, and the said land has

been made over to P.R.D.A. for construction of Transport Nagar. He says that the P.R.D.A. has connected the land with an approach road, but he is not in a position to deny the fact that the land on which the so called Transport Nagar is to be located is even today water logged. Such being the position, we fail to understand how the transporters and transport agents can be compelled to purchase the land and construct their depots on such land. The game is that the Transport Nagar will never come up because of the inherent deficiencies and, therefore, the order of this Court asking the transport agencies and their proprietors to shift outside municipal limits of Patna will never be given effect to. There is a concerted effort on the part of the Government and the P.R.D.A. and transport agents to defeat the orders of this Court which had been passed in public interest. We, therefore, direct that our order dated 19th May, 1998 shall come into effect from, tomorrow, the 5th December, 1998. The District Magistrate, Senior Superintendent of Police, Superintendent of Police (Traffic) and other authorities of the State are directed to act in accordance with the order. At the same time we permit the transport agents to establish their offices, depots etc. at any other place, apart from the so called Transport Nagar, beyond the municipal limits of the city of Patna. We direct the District Magistrate, Senior Superintendent of Police and the Superintendent of Police(Traffic) to be present in Court, so that in consultation with them we will clearly demarcate the area prohibited for entry of trucks and for establishment of offices/godowns of transport agents. Till then the prohibitory order will remain in force, and only with the permission of the District Magistrate, as directed, any truck will be allowed to enter within the municipal limits of Patna.

3. Put up on 11th December, 1998. We authorise the District Magistrate to pass specific or general regulatory orders, as she may deem proper, to demarcate the municipal limits of Patna, till further orders of this Court, which we intend to pass on 11th December, 1998. Let a copy of this order be given to A.A.G.III and counsel for the P.R.D.A.