

(2015) 02 JH CK 0138

In the Jharkhand High Court

Case No : Writ Petition (PEL) No. 899 of 2014

Ashish Panjiyara and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 18-02-2015

Acts Referred:

Citation : (2015) 2 AJR 196

Hon'ble Judges : Dhirubhai Naranbhai Patel, J; Pramath Patnaik, J

Bench : Division Bench

Judgement

Dhirubhai Naranbhai Patel, J.

1. Counsel for the petitioner submitted that following are the prayers made in the memo of the petition:

"1. That in the instant writ Petition by way of Public Interest Litigation the Petitioners pray for issuance of appropriate Writ or Writs, Order or orders, direction or directions commanding the Concern Respondents to take necessary steps for proper Re-Construction of Road from Dudhani Tower Chowk to Gandhi Maidan i.e. within the township of Dumka Town because Respondent No. 7 without dismantling the existing old Road started Reconstructing the Road, due to which height of constructed Road will be increased by about 3 feet in comparison to existing old Road, resulting inconvenient to local people;

AND

Petitioners further pray for issuance of appropriate Writ or Writs, Order or orders, direction or directions commanding the Concern Respondents to properly Re-construct the Road by digging and dismantling the old road and without increasing the height of the Road at least within the Town Ship of Dumka Town, so that inhabitants of Dumka Town will not face any difficulty because if Road will be constructed 3 feet height than the adjacent houses then existing houses will become unhygienic and People of that locality will face several problem which will

become incurable.

AND

Petitioners further prays for issuance of appropriate Writ or Writs, Order or orders, direction or directions commanding the concern Respondent to dispose of the Representation dated 16-01-2014 filed by the petitioners and other which pending till date before the Principal Secretary, Road Construction Department, Govt. of Jharkhand."

It is submitted by the counsel for the petitioner that this writ petition has been filed because height of the road in question has increased due to reconstruction. Petitioner No. 1 is a part time lecturer. Petitioner Nos. 2 and 3 are Advocates and this writ petition has been filed in the interest of public at large with respect to construction of a public road.

2. Counsel for the State submitted that a detailed counter-affidavit has been filed and relying upon paragraphs 13 and 19 of the counter-affidavit filed by the respondent State, the counsel submitted that for construction of the road in question a Detailed Project Report, which is a road map for the construction activities, has been prepared and the road in question has been constructed as per the approved Detailed Project Report and that this public interest litigation may not be entertained at this stage.

3. Having heard both sides and looking to the facts and circumstances of the case, it appears that the subject-matter of this public interest litigation, i.e. reconstruction of road from Dudhani Chowk to Gandhi Maidan within Dumka Town is part and parcel of the Package-2 Govindpur-Sahebganj Road Project. It further appears that the petitioners are questioning the nature of construction as well as height of the road, but, in paragraphs 13 and 19 of the counter-affidavit filed by the respondent-State, it has been stated that the road in question has been constructed as per detailed project report. For ready reference, paragraphs 13 and 19 of the counter-affidavit is quoted hereunder:

"13. That the construction of aforesaid road as per approved D.P.R. is in the interest of mass public and problem of frequent damage of road can be evaded for ever."

"19. That in reply to averments made in paragraph No. 7 of the writ application under reply, it is stated and submitted that presently the construction work is in continuance and the works are being done as per DPR and the site has been twice verified by International Consultants. It is further stated and submitted that the road in question has been constructed after making necessary dismantlement and erection as specified under approved DPR."

For any construction work a Detailed Project Report is prepared and the guidelines of that D.P.R. must be adhered to. In the present case, as per the counter-affidavit, the road in question is constructed as per the guidelines of Detailed Project Report. Moreover, it is not the job of this court but that of an

expert appointed by the State to determine as to what should be the correct height of the road in question in the light of the fact that the respondent State has stated on oath that the road in question has been constructed as per the guidelines of the Detailed Project Report. We, therefore, see no reason to entertain this public interest litigation, which is accordingly dismissed.