
(2000) 11 PAT CK 0011
In the Patna High Court
Case No : C.W.J.C. No. 9070 of 1999

Birbal Sharma

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 22-11-2000

Acts Referred:

Citation : (2000) 11 PAT CK 0011

Hon'ble Judges : Ravi S. Dhavan, C.J.;Aftab Alam, J

Bench : Division Bench

Advocate : Rama Kant Sharma, for the Appellant; Prabhat Kumar for State, for the Respondent

Judgement

1. This is an unusual case where a Member of Legislative Assembly (M.L.A) from Chanpatia constituency has filed the present writ petition seeking justice from the High Court in its prerogative writ jurisdiction that in matters of public planning in which the State is obliged to discharge its public duty to complete earmarked and allocated plans, he is receiving no concrete answers on the plan for the construction of a Screw Pipe Bridge over river Pandait near Sathi police station. It is contended that this plan had been sanctioned in the year, 1988-89 and scheme had been drawn up for execution. A Member of the Legislative Assembly is pleading before the High Court that he had filed several representations before the State Government between 1990 to 1998. He further states that he surrendered a sum of Rs. 10 lacs from the M.L.A fund and a sum of Rs. 7 lacs had been sanctioned by the District Magistrate and a sum of Rs. 22 lacs was to be allocated by the State Government to the scheme to complete the public plan. The Hon'ble M.L.A. also states that the Minister, Rural Development, accordingly, directed the Secretary to have the scheme executed and the plan accomplished. It is further contended that as a M.L.A. he has been moving different authorities of the State Government but there is apparently no response. This is a sad feature that a M.L.A. cannot get a response from the State Government in the execution of a public plan which has been sanctioned

and he has also contributed from the M.L.A. fund which had been allocated to him.

2. A counter affidavit has been filed to the petition. It has been affirmed by an Executive Engineer, Rural Engineering Organisation. The counter affidavit recites that it has been filed on behalf of the Secretary, Rural Engineering Organisation, Government of Bihar, respondent no. 2, the Engineer-in-Chief, Rural Engineering Organisation, respondent no. 3, the Superintending Engineer, Rural Engineering Organisation, Bettiah, respondent no. 2. Paragraphs 7 and 9 of this counter affidavit are relevant and these are reproduced below :

7. That with regard to the statement made in para 6 of the writ petition, it is stated that revised technical approval has been accorded and process of obtaining revised administrative approval is under process. Grant of revised administrative approval and allotment of funds will depend on the overall availability of funds with the department.

9. That it is humbly submitted and stated that this scheme had been taken up under the State plan under the unit construction of New Bridges falling under the Minimum Needs Programme. During the current year (2000-2001) there is no plan outlay for the aforesaid unit. It would be pertinent to add that a number of other schemes are also pending for want of funds under the aforesaid unit. Depending on the availabilities of funds these schemes would be taken up for completion.

3. A plan which has been sanctioned and funds had been allocated specially out of the M.L.A. fund, the court has reservation whether the State Government can give such a reply as in the counter affidavit and get away with it. Even within the Government between the executive and the legislature the system has to work on answerability.

4. It appears that the State respondents have not realised the seriousness of the situation that the State Government is virtually telling an Hon'ble Member of the Legislative Assembly that all his plans including those to which he had contributed from his funds are in the cold storage and cannot continue until funds are available and in any case of the plan which had been sanctioned, there is no place for it during the year, 2000-01.

5. At present the High Court will not comment more because Mr. Prabhat Kumar, learned J.C. to A.A.G. Ill seeks a week's time for taking instructions. As prayed, put up this case after one week.