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**(2008) 08 JH CK 0147**  
**In the Jharkhand High Court**

Dhanjay Kumar Dubey

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

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**Date of Decision :** 07-08-2008

**Acts Referred:**

**Citation :** (2008) 4 JCR 113

**Hon'ble Judges :** M.Y. Eqbal, J;Jaya Roy, J

**Bench :** Division Bench

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### **Judgement**

1. This Public Interest Litigation relates to construction of bridge flyover, R.C.C. bridge over river Subernrekha and the bridge over Railway line at Namkum. This Court by order dated 23.7.2008 directed the National Highways Authority, Government of India regarding the development of the project. Pursuant to the aforesaid order two affidavits have been filed, one by the Executive Engineer, National Highways, Division Branch, Ranchi and another by Secretary Road Construction Department, Government of Jharkhand, Ranchi. In the affidavit filed by the National Highways Authority, it is stated that Pre- Qualification bid notice for the prospective contractors for the purpose of construction of railway over-bridge has been published through local newspaper on 5.1.2008. In response to that notice contractors" companies participated in the Pre-qualification bid and submitted document for technical evaluation. A financial bid was received on 10.4.2008. The technical evaluation report prepared by the State level committee has been sent to the Ministry of Surface Transport for their approval and till approval is received the financial bid cannot be accepted. It is stated that office of the National Highways Authority will have to depend upon the Ministry of Surface Transport, Road and Highways. The Executive Engineer, Road Construction Department, Government of Jharkhand in separate affidavit has stated the same thing which has been stated by the National Highways Authority. It is, therefore, clear that the matter relating to construction of flyover and bridges are still under process. From perusal of the record, it appears that the matter relating to construction of flyover and bridges was raised as far back as 1998 in CWJC No. 1043 of 1998 (R). In the said Writ Petition (PIL), the

respondent-authorities gave assurance about the completion of the work within a reasonable time and thereafter the said writ petition was disposed of on 25.9.2001. Even after assurance nothing was done and both the National Highways Authority and State of Jharkhand sat tight over the matter and did not even care to provide flyover and bridges at Namkum. After waiting for about four years, this writ petition has been filed in the year 2005. The matter was taken up by this Court and by order dated 16.2.2005, this Court directed the counsel appearing for the respondents to file affidavit giving sufficient and satisfactory explanation for non-compliance of the direction failing which suo motu contempt proceeding would be initiated against the officers of the Indian Railways and Ministry of Surface and Road Transport, Government of India and Road Construction Departments (National Highways), Jharkhand.

2. On 1.4.2005 a Bench of this Court presided over by the then Hon''ble Chief Justice (Altamas Kabir, CJ) expressed their anguish and displeasure as nothing was done by the respondents. Their Lordships directed the authorities to hold a meeting and subsequent to the meeting a definite time table is to be drawn up for the purpose of completion of work. Since thereafter this Public Interest Litigation is pending and time to time various orders have been passed directing the respondents to complete the construction of railway flyover and bridge at Namkum. But till date even the respondent-authorities had not finalised the technical bid.

3. This Court take judicial notice of the fact that in other capital cities like Delhi, Kolkata, Hyderabad every four to six months one may see a new flyover constructed in the capital city but it is unfortunate that even in the capital city of the State of Jharkhand the Government is not in a position to construct a flyover and bridge despite assurances and promises given in affidavits. We take serious view of the matter and we have no option but to observe that it is a complete failure on the part of the National Highways Division and the State of Jharkhand who are not in a position to prepare a railway flyover and bridge for the people of this capital city, what to talk about other districts and remote villages. This Court once again direct all the respondents-authorities to complete construction of railway flyover and bridge at Namkum within a period of six months from today failing which the Registry shall place this matter before this Court for passing appropriate order including initiation of sua motu contempt proceedings against all the officers who shall be found responsible and for whose inaction the order is not complied with.

4. Let a copy of this order be supplied to the Learned Advocate General who shall personally hand over the same to the Chief Secretary and shall hold meeting with the Hon''ble Chief Minister and the Chief Secretary and also apprise them about the worst situation. The Advocate General shall also hold meetings with the National Highways Authority and see that the direction is complied with within the time fixed hereinabove.

5. Another copy of this order be given to the standing counsel appearing for the

Central Government, who shall take up the matter seriously and apprise the authorities about the prevailing situation.