

(2019) 12 PAT CK 0046

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 20458 Of 2018

Krishna Singh

APPELLANT

Vs

Union Of India Through The Secretary And Ors

RESPONDENT

Date of Decision : 06-12-2019

Acts Referred:

Citation : (2019) 12 PAT CK 0046

Hon'ble Judges : Sanjay Karol, CJ; Anil Kumar Upadhyay, J

Bench : Division Bench

Advocate : Dinu Kumar, Jyotsna Rani Mishra, S.D. Sanjay, Rajesh Kumar Verma, Manish Kumar

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner and learned counsel for the respondents.

2. Petitioner has prayed for the following reliefs:-

"i. For issuance of appropriate writ, order, direction for commanding upon the respondents concerned to allow the residence of Dakshin Chakkar Muzaffarpur to use the only pathway/rasta which extends from Chandmari to Prabhat Tara School towards Chakkar chowk which is currently prohibited by the Defence officers for use by the locals as a result of locking the residents in their locality without the proper rasta for commutation affecting their right to way.

ii. For a direction to the respondent defence officers concerned who have blocked the only Aam Rasta used by the residents of Dakshin Chakkar Maidan Muzaffarpur to make it open for use of the local resident for commutation purpose in the light of the order passed in the Misc. case no. 31/2012-13 and the order vide memo no. 164 dated 20.1.2014 issued by Collectariat Muzaffarpur by which there was a direction and order to the concerned respondent Defence officers not to obstruct the Aam Rasta which had been in use since time memorial.

iii. For a direction to the respondent defence officers to implement the order passed by the Collector Muzaffarpur dated 14.5.2013 passed in the light of the order passed in CWJC No. 6099 of 2012 dated 5.4.2012 whereby a direction was given not to obstruct the Aam Rasta concerned in the interest of public at large.

iv. For a direction to the concerned defence respondent to allow the local resident of Dakshin Chakkar Muzaffarpur to use the only pathway which was constructed by the Bihar Government around the Chakkar Maidan in the land of race course for communication."

3. In so far as the instant petition is concerned, making out grievance against the defence personnel and the authorities, we find no merit therein.

4. Learned Additional Solicitor General vehemently opposes the writ petition.

5. We notice that there is an allegation in the counter affidavit of the petitioner having assaulted the army personnel as also encroached the defence land.

6. At this stage, learned counsel appearing for the petitioner, under instructions, contends that petitioner is interested in having an alternate route, from the land other than which is sought to be utilized for defence purposes or in the possession of public authorities.

7. Learned counsel for the petitioner further prays that petitioner be permitted to withdraw the present petition reserving liberty to approach the authorities for finding an alternate route of ingress and egress.

8. Learned Additional Solicitor General states that it is not that the petitioner is landless. There is a road; whether it is motorable or not and is convenient or not is a different matter.

9. Well, without going into the merits thereof, at this stage, we allow the petitioner to withdraw the present petition reserving liberty to approach the Divisional Commissioner, Muzaffarpur for venting out his grievance with regard to alternate route, which the petitioner desires to have from the land other than that of the defence or public land.

10. We hope and expect that the petitioner's grievance shall be redressed expeditiously and positively within a period of six months in accordance with law.

11. The writ petition is accordingly dismissed as withdrawn.