
(2000) 04 PAT CK 0067
In the Patna High Court
Case No : C.W.J.C. No. 3538 of 1998 (R)

Narayan Prasad Kanodia

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 05-04-2000

Acts Referred:

Citation : (2000) 2 BLJR 1549

Hon'ble Judges : S.K. Chattopadhyaya, J;A.K. Sinha, J

Bench : Division Bench

Judgement

1. Heard the learned Counsel for the parties.

2. On 6.1.2000, after elaborate hearing of the matter, this Court by way of interim measure had given certain directions which are as follows:

We are, therefore, passing the following directions today which shall be followed by other directions, The interim directions passed today are:

(i) The Government of Bihar is directed to immediately consider the Scheme that may be submitted by MADA for extension of its activity relating to supply of drinking water. Sufficient fund should be made available immediately, and not later than two months from today, to enable MADA to improve the supply of drinking water within the area of its operation.

(ii) MADA shall forthwith submit to Dhanbad Municipality the statement showing total amount due from Dhanbad Municipality in respect of supply of drinking water. Dhanbad Municipality shall within one month from the date of supply of such statement pay to MADA the amount due. Any discussion in regard to the correctness of the bill must take place within this period so that payment is made to MADA within the period stipulated.

(iii) The dues of Dhanbad Municipality from the Government organizations should also be paid within one month from the date of demand to be made by Dhanbad Municipality against the Government authorities concerned. The State of Bihar is

directed to instruct its authorities concerned to pay the bills raised by Dhanbad Municipality for supply of drinking water to its various authorities under its jurisdiction so that Dhanbad Municipality may be able to pay the dues of MADA. Besides these specific directions, other directions were also given indicating how MADA and Municipality will realize their dues against their consumers. The B.C.C.L. was also directed to see that the bills are paid. A pious hope was expressed by this Court on that date that the Dhanbad Municipality and the MADA would ensure smooth water supply to the consumers falling within their respective zones at a satisfactory level. It was observed in particular that the MADA should, if possible, supply larger quantity of water to Dhanbad Municipality since the demand of water has grown many times. It was also observed that the supply of drinking water to all the consumers should be maintained for at least six hours in a day in two phases, i.e., three hours in the morning and three hours in the evening.

3. This order was passed in open Court and to hearing of all the parties. But, we are constrained to observe that the directions have not been complied with in its true spirit and by filing different counter-affidavits, allegations and counter allegations are being levelled against each other. We fail to appreciate this attitude of the agencies, who are responsible under the law to provide drinking water as well as other basic amenities to the citizens of Dhanbad. On 6.1.2000, this Court observed that the supply of drinking water being an essential requirement of the society, there cannot be any compromise in this regard. We are not only surprised but also pained to note that even the MADA, the autonomous body, who has the statutory obligation to supply water, etc. is also not performing his duty to the satisfaction of general public of Dhanbad and its neighbouring area like Katras. Jharia, etc.

4. Finding it difficult to resolve the problem, we directed the Deputy Commissioner, Dhanbad. on 27.3.2000 to be present in this Court and submit a report as to the actual state of affairs. Pursuant to that order the Deputy Commissioner submitted his report dated 3.4.2000 from which it appears that at present the problem of water supply can be temporarily resolved, if P.H.E.D. gets a sum of Rs. 26 lacs for renovating/repairing the pumping plants and various appliances. It also appears from his report that P.H.E.D. required Rs. 329 lacs for compliance of remaining works for water supply, re-organization and for mechanical appliances, whereafter, it shall be able to supply water six hours a day provided MADA continues its pumping operation twenty four hours daily.

5. Mr. M.M. Banerjee, appearing on behalf of the B.C.C.L. on instructions fairly submits that B.C.C.L. is ready and willing to give Rs. 26 lacs to P.H.E.D. which will be on account of MADA for immediate solution of the problem. He further states that the B.C.C.L. is giving Rs. 80-90 lacs approximately per month to MADA by way of water charges against current bills and the B.C.C.L. at this stage is ready and willing to pay a total sum of Rs. 1 crore per month so that the excess amount can be utilized by MADA for resolving the problem of water

supply. We appreciate the offer on behalf of the B.C.C.L. but make it clear that any amount given to the P.H.E.D. on account of MADA or directly to the MADA will be subject to the adjustment of the bills which are in dispute. As B.C.C.L. has agreed to pay Rs. 26 lacs on account of MADA to the P.H.E.D. and also Rs. 1 crore per month to MADA, the Dhanbad Municipality should not insist on recovery of its dues against the B.C.C.L. which is at present disputed and the Deputy Commissioner, Dhanbad, is directed to consider this matter.

6. So far as the dispute regarding the payment of bills between the MADA and B.C.C.L. is concerned, we direct both the authorities to settle the dispute within two months from today. Though it is not the scope of this public interest litigation but as agreed by Mr. Gadodia and Mr. Banerjee on behalf of their respective clients, we request the Deputy Commissioner, Dhanbad to resolve the dispute under his Chairmanship by submitting a report to this Court. It is expected that the officials of both MADA and B.C.C.L. will reasonably co-operate with the Deputy Commissioner by placing their respective cases before him.

7. So far the as directions to the Government of Bihar given by this Court on 6.1.2000 is concerned, the same have not been complied with. However, regarding the sanction of fund in respect of the scheme to be submitted by MADA, a counter-affidavit has been filed on behalf of the State stating therein that MADA had sent, the scheme of the year 1997 in this year which was returned to MADA by asking it to submit the latest scheme. This scheme of 1997, according to Mr. Gadodia, was already pending before the Government since 1997 and after the order passed on 6.1.2000, for the second time on 5.2.2000 the scheme was again sent to the Government. We fail to appreciate the conduct of the officials of MADA. When on 6.1.2000 MADA was required to submit a scheme, naturally, we meant that the latest scheme would be sent to the Government. Instead of doing that, the MADA had sent the old scheme of the year 1997, in the year 2000. This clearly shows that negative approach of MADA in resolving the problem with which we are facing in this case. In its counter-affidavit, MADA has taken a plea that at least the State Government should have sent Rs. 14 crore and odd on the basis of scheme of the year 1997 and should have asked for a revised estimate. We are really surprised with this stand of MADA. It appears that the MADA is only interested in receiving the money either from the State Government or from other sources and not serious in implementing the scheme by providing drinking water to the citizens. We highly deprecate this attitude and hereby direct the MADA to send the latest scheme positively by 17th April, 2000 to the State Government which will be scrutinized by the appropriate body at the Government level and necessary funds, if so required, must be supplied to MADA by 10th May, 2000.

8. In the meantime, the Scheme submitted by P.H.E.D. before the Deputy Commissioner, Dhanbad, be also sent to the State Government for scrutiny by the appropriate body and to make available the necessary funds within the said period. The scheme of P.H.E.D. should also reach the State Government by 17th

April, 2000. It is needless to say that the Deputy Commissioner, Dhanbad, will send the said Scheme of P.H.E.D. to the department concerned at Patna.

9. So far as the Dhanbad Municipality is concerned, we are constrained to observe that the Special Officer of the Dhanbad Municipality is also not very eager to solve the problem of water scarcity in the town of Dhanbad and its periphery. It is an admitted fact that a sum of Rs. 10 lakh have been received by the Municipality on 31st March, 2000. out of which, only a sum of Rs. 5 lacs has been given to the MADA towards its dues. The Special Officer of the Dhanbad Municipality, who is present in the Court, on quarry submits that Rs. 5 lacs was paid in March and another Rs. 5 lakh has already been paid on 1st April, 2000. So far as the dues of the Municipality against the Government and non-Government organization is concerned, Mr. Sahay has drawn our attention to the Government letter as contained in Annexures-E & F to the counter-affidavit filed on 10.3.2000 and submits that the State Government has directed all the authorities to immediately pay the dues to the Municipality and the Special Officer was also requested to inform in this regard to the State Government From the list annexed with these Annexures we find that there are several dues of the Municipality not only against the State Government but also against the Central Government as well as University etc. Mr. Rajendra Prasad, appearing on behalf of the Dhanbad Municipality on instructions from the Special Officer submits that notices have already been sent to those organizations directing them to pay the dues within certain date. But, except certain small amount, that too, from the Forest Department, State Bank of India, Excise Department, Deputy Director of Industries, District Judge, Dhanbad, Superintendent, of Police, Dhanbad, etc. no other agencies have paid their dues. The Special Officer, Dhanbad Municipality is hereby directed to submit a list of those agencies from which the Municipality is still having its dues and also the list from which it was already received the dues before the Deputy Commissioner by 10th April, 2000, positively. The Deputy Commissioner, Dhanbad, is hereby directed to take all steps in accordance with law to recover the dues, of the Municipality from the Government agencies so that the order of this Court dated 6.1.2000 can be implemented without any further delay, it is made clear that after receiving the dues, the Special Officer of the Dhanbad Municipality will immediately repair the . hand-pumps which are lying idle for sometime and will see that supply of drinking water is restored to its normalcy. Till the submission of scheme by the MADA and its approved by the State Government, MADA will take all steps to supply water as directed earlier by this Court.

10. We hope and trust that at least this time, the different authorities will co-operate with each other for solving the problem of drinking water for the citizens of Dhanbad and its periphery.

11. In the meantime, the Deputy Commissioner, Dhanbad, will monitor the matter at, his level and will see that the order of this Court are being respected and carried out by the different authorities/agencies.

12. List this case on 15th May, 2000, under the same heading when the Deputy Commissioner, Dhanbad, will submit a report to this Court mentioning the progress of the work made by those agencies and about the supply of water as directed.
13. Let a copy of this order be handed over to Mr. A. Sahay, G.A. for proper compliance.