

**(2016) 10 PAT CK 0073**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 14777 of 2016

Pramod Kumar Singh

APPELLANT

Vs

Union of India

RESPONDENT

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**Date of Decision :** 06-10-2016

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2017) 1 BBCJ 124 : (2016) 4 PLJR 940

**Hon'ble Judges :** Mr. Hemant Gupta and Mr. Ahsanuddin Amanullah, JJ.

**Bench :** Division Bench

**Advocate :** Mr. Pramod Kumar Singh, Advocate, for the Petitioner; Mr. Sandeep Kumar, Advocate, for the Intervenor; Mr. S.N. Pathak, Advocate, for the N.H.A.I.; Mrs. Nutan Sahay, A.C. to A.A.G.-12, for the State

**Final Decision :** Dismissed

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## **Judgement**

Mr. Hemant Gupta, J.(Oral) - The petitioner has invoked the jurisdiction of this Court, in the public interest, challenging the construction of fly-over at Bihta crossing, whereas the land was earlier acquired for construction of bye-pass, including the land of the petitioner.

2. A perusal of the writ petition shows that the farmers, including the petitioner, have given their lands for construction of byepass, but the National Highway Authority of India has changed its plan for construction of bye-pass and has decided to construct fly-over on Patna Buxar four lane Highway.

3. Whether the bye-pass or the flyover should be constructed is a matter which requires decision by the experts of the National Highway Authority of India, a Statutory Authority. If the National Highway Authority of India has taken a decision to construct a fly-over instead of a bye-pass, we, in exercise of power of judicial review, cannot return a finding that instead of fly-over, the National Highway Authority of India should construct bye-pass. The power of judicial review in a public interest is not to the extent to change the proposal of

construction of fly-over to that of bye-pass. In fact, the communication dated 1st of July, 2016 (Annexure-3) shows that for the time being, the acquisition process for the construction of bye-pass has been stalled and on the existing road, the fly-over is proposed to be constructed. There is no inference that the proposal for bye-pass has been shelved permanently.

4. We do not find any merit in the present writ petition more so when the petitioner has a private interest as his land is subject matter of acquisition for the purpose of construction of bye-pass.

5. Consequently, the writ petition is dismissed.