

(2002) 02 PAT CK 0046
In the Patna High Court
Case No : C.W.J.C. No. 13320 of 2001

Raghu Nath Jha

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 04-02-2002

Acts Referred:

Citation : (2002) 1 BLJR 559 : (2002) 1 PLJR 645

Hon'ble Judges : R.S. Garg, J

Bench : Single Bench

Judgement

R.S. Garg, J.—Parties are present. The District Magistrate is also present.

2. On 7-1-2002, the Hon''ble Judge started proceedings with:

Such absurd and meaningless litigation can take place perhaps only in this State.

3. The petitioner who is a Member of the Parliament, from his funds has proposed construction of a road for a sum of Rs. 14,48,700. The petitioner says and submits that almost about 75% of the construction work is over but unfortunately the then District Magistrate without taking the facts in true perspective for the reasons best known to him allowed the Marketing Committee to relay or rebuild the road for a sum of Rs. 22 lacs and odd.

4. The petitioner's grievance further is that without any valid and tangible reason the construction could not be stopped. Learned Counsel for the Market Committee on the other hand submits that in January, 2001, a proposal for reconstruction of the road was made, the then District Magistrate approved the same but before estimate, etc. could be prepared or any work order could be issued, the petitioner from his own funds started the construction work.

5. He, however, submits that the Marketing Board has yet not spent a single penny on construction/relaying the road.

6. In accordance with the directions issued by this Court on 7-1-2002, the

District Magistrate is present in the Court and has filed his counter-affidavit. On being asked as to why he did not file counter as earlier directed by this Court, he very simply answers that information received from the office of the Advocate-General were misplaced. I am at a loss to understand as to why such a vague and ambiguous reply is coming from the District Magistrate. Be that as it may, as the counter-affidavit of the District Magistrate has already come on the record, it is not necessary to enter into the lapses committed by the District Magistrate. However, he is forwarded that in future after receiving the notices from the High Court or from the office of the Advocate-General he should act in a manner which is befitting his office and should not act in such a manner. When an information is sent from the office of the Advocate-General the office of the Advocate-General does not require the attendance of an officer whosoever he is just for a chit-chat or sharing a cup of tea but in fact under the direction of the High Court, the Advocate-General requires the District Magistrate to file counter.

7. The District Magistrate was asked by this Court that how much of the work has been completed under the quota sanctioned by the Member of Parliament, without giving a second thought the District Magistrate simply said that some piece of road has been made and about a sum of Rs. 25,000 has been spent on it. When this Court asked the District Magistrate to file an affidavit in support of this allegation, to wriggle out of this statement, the District Magistrate said that he has not inspected the spot nor he has any material with him, therefore, if some time is given to him to make an inquiry of spot then he will file counter. I am sorry to say that such a statement is coming from a District Magistrate from whom at least the High Court can expect that he would be ready with the facts and would be able to assist the High Court.

8. Let the District Magistrate file a detailed Counter-affidavit after making spot verification either personally or through a committee to be constituted by the District Magistrate himself. For the profit of the District Magistrate, he is hereby informed that the funds from the parliamentary quota are handed over by the M.P. to the State Government through the agency of the District Magistrate and after approval by the authority the amounts are supplied or paid. If the District Magistrate finds that the work worth the amount already as paid has not been done, then he shall immediately start investigation as to why the extra amount was paid for the lesser or lower standard of the work.

9. Let Marketing Board file a counter to show that the sum of Rs. 20 lakh as proposed is for relaying the entire road from point to point or for the part which is unfinished. The respondent-Marketing Board shall be obliged to make random sampling at some places where the road has already been constructed, and submit their report to this Court that the road has been constructed in accordance with the norms fixed under the directions of the District Magistrate himself while issuing the work order.

10. It is not to be forgotten by any authority that the fund from the parliamentary quota are public funds and the District Magistrate is the trustee and care taker of

the said funds. Similarly, the Marketing Board holds the money for benefit of the public and it has to spend the money in accordance with the law. The care-takers should not become the under-takers in this system.

11. The matter be listed for further hearing on 25-2-2002 in the supplementary list.

12. In the meanwhile the District Magistrate and the Marketing Board shall furnish their detailed affidavits. The District Magistrate shall remain in attendance on the said date. Copy of this order be supplied to the Counsel for the parties.