

(2003) 05 PAT CK 0049
In the Patna High Court
Case No : C.W.J.C. No. 4414 of 2003

Santosh Mehta

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 06-05-2003

Acts Referred:

Constitution of India, 1950 — Article 48A, 51A

Citation : (2003) 2 BLJR 1217 : (2003) 3 PLJR 674

Hon'ble Judges : Ravi S. Dhavan, C.J.; R.N. Prasad, J

Bench : Division Bench

Advocate : D.K. Sinha and Santosh Kumar, Prem Kr. Verma, for the Water Board, Ajay Kumar, I.A.S. Secretary, Urban Development Deptt. Govt. of Bihar and Ravindra Kumar, Chief Engineer, Patna Water Board, for the Appellant; A.N. Singh, SC 8, for the Respondent

Judgement

Ravi S. Dhavan, C.J. and R.N. Prasad, J.—This petition complains that between the second tube-well which has been installed, the first one should not be shut off and both should continue as Patna needs water. As Counsel for the petitioner was submitting, the submissions were interjected by the Counsel for the Patna Water Board, Mr. Prem Kumar Verma, submitting before the Court that a similar matter is before another Bench and the petitioner ought to have mentioned this and the petition is a duplication and is otherwise misplaced.

2. It depends on how this matter is viewed. In mediocrity or a true concern about conserving and preserving a precious natural resource-ground water. To that extent, may be both the petitioner and the respondents may not have perceived what environment and ecology is about.

3. The only thing which needs to be kept in mind is scarcity of water, in consumption and production both. This petition is about water as a municipal supply to those who live within the city, an urban habitat.

4. The Court takes this petition on an entirely different plane. Patna does not

have a municipal water works. Drawing water from the ground with the aid of tube-wells is not planning for the long term. Environmentalists are cautioning that indiscriminate discharge of water by forced withdrawal through power motorised bore-wells will deplete this natural resource. The time has come to have an alternate plan which will conserve ground water and the same plan should harness free flowing water to correlate it with the consumption of the habitat. Civilizations have been found near a natural water supply. Forcing water but for consumption by an unplanned habitat is a recent phenomenon. It is fighting with nature. Now comes the aspect of preserving the ecological balance. For centuries Patna has lain next to a river bed, The river beds have perennially charged the ground water and monsoon water supplemented the ground water recharge. But, this is the cycle of nature, which as far as possible should not be disturbed.

5. How long will the ground water sustain itself if it is forced withdrawn for city needs by motorised tube-wells? Environmentalist voice concern that ground water level is dropping. The Court was indicated by the Secretary, Urban Development along with the Chief Engineer, Patna Water Board that the ground water level in Patna falls at the rate of 5 feet per year during summer. The cause and effect is accepted. The correct fall in ground water level can be gathered from hydrology reports; a data which is available. Other cities in the nation are not exception to the fact that they face water scarcity. Some cities have to get water from far away, even other States. Delhi is one example.

6. Patna has a constant supply of water from the river flowing next to it, and yet more rivers and canals near it Patna needs a municipal water works. There is old age concept of..... wells which the Secretary and the Chief Engineer were aware of.

7. The Secretary also mentioned that the administration is also concerned in the loss of catchment areas contributing to the recharge system and during monsoon. He accepts that unplanned unauthorised urban sprawl has covered these areas. This is one aspect. But large scale habitat consumption has to taken care of. The excellence of planning would be to discourage deep bore-well forced-discharge. This will deplete ground water.

8. Sooner or later, municipal waterworks will have to be planned. The plan itself will need to be drawn up. The execution of the plan itself perhaps may take a couple of years. The Court only needs to remind the State administration that protecting the environment and preserving the ecological balance is now an obligation set upon every citizen under the Constitution. Article 51A, the chapter on Fundamental Duties calls upon every citizen, the administration not excluded, to join in an endeavour and achievement to protect and improve the natural environment. Water is one of the elements and this man made imbalance in depleting ought to be everyone's concern. Article 48A of the Constitution of India specially casts a duty on the State to protect the environment. The Environmental Protection Act, 1986 casts an obligation to preserve the balance

between consumption and natural resources.

9. In the circumstances while forced withdrawal of water with high powered motors draw water from deep bore-wells this cannot go on indiscriminately. Ultimately, sooner or later this generation or the next generation will face a situation as to from where to get its drinking water supply. Also not to be overlooked is the concept of inter generation equity when man made activity upsets the environment. There is obligation to leave a better world for the next generation, Preservation of natural resources is one obligation and from this there is no escape.

10. The Court indicated to the Secretary that at least the plans be drawn up for setting up a municipal water works for Patna. The funds available for habitat water consumption be indicated to the Court. These may be funds from the State Government, Central Government or other public funding agencies whether national or international.

11. Let this matter be placed before the Court on 13 May, 2003 under the supplementary list.