
(2009) 07 PAT CK 0089
In the Patna High Court
Case No : CWJC No. 1887 of 2009

Vijay Kumar Mishra

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 30-07-2009

Acts Referred:

Constitution of India, 1950 — Article 243Z

Citation : (2009) 4 PLJR 588

Hon'ble Judges : Shiva Kirti Singh, Acting C.J.; Anjana Prakash, J

Bench : Division Bench

Judgement

1. Heard the parties. In paragraph 6 of the counter affidavit filed on behalf of respondent Nos. 3, 4 and 5, who are the Collector, Muzaffarpur, The Sub-Divisional Officer, East Muzaffarpur. The Circle Officer, Muraul, District Muzaffarpur, a guarded statement has been made that on 12.11.2008 itself encroachment up to "Kharanja" (soleing) level has been removed from the public road in question, and hence, it has been claimed that there is no obstruction or hindrance to use the road by the villagers as well as in the movement of the vehicles.

2. Learned counsel for the petitioner has referred to Annexure-19 to the rejoinder filed on behalf of the petitioner and alleged that still the public road suffers from various kinds of encroachment including total obstruction of certain parts shown in dark blue ink. Learned counsel for the petitioner has further placed reliance upon judgment of this court in the case of Binod Prasad Singh and Others Vs. The State of Bihar and Others to submit that in a public interest litigation a Division Bench of this Court considered the obligation of various authorities under Article 243Z of the Constitution of India and held that public roads are to be kept free from encroachment because the roads of the nation have to take care of the traffic of the future and the increasing population as well as faster traffic. That judgment has taken the view in paragraph 4 that flanks of the main road, which are part of it, will need to be wider for the safety of

pedestrians.

3. In view of the admitted position in this case that encroachment has been removed only up to "Kharanja" level of the road and not of the entire flanks, we direct the concerned respondents including the District Magistrate, Muzaffarpur, to ensure that the entire public road bearing RSP No. 349 situated in Village-Ashanand under Muraul Block of Muzaffarpur district is free from all types of encroachment.

4. A compliance report should be submitted to this court by the next date.

5. As prayed for on behalf of the State, let this matter be listed after eight weeks under the same heading. Let a copy of this order be given to G.P. I for communication and proper compliance.