

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8900 of 2020

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The National Highway Projects in the state of Bihar

... .. Petitioner/s

Versus

The State of Bihar & Ors.

... .. Respondent/s

=====

Appearance :

Appearance :

For the Petitioner/s :

For the State of Bihar :

Mr. Anjani Kumar, AAG-4

Mr. Pawan Kumar, AC to AG

For the Union of India :

Dr. K.N.Singh, ASG

Mr. Kumar Priya Ranjan, Advocate

For NHAI :

Mr. S.D.Sanjay, Sr. Advocate

Mr. Anshay Bahadur Mathur, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

8 22-03-2021 This is in continuation of our earlier orders passed in the present petition as also different orders passed in CWJC No.19592 of 2018, titled as Gaurav Kumar Singh Vs. The Chief Secretary, Government of Bihar & Ors.; CWJC No.8032 of 2021, titled as National Highway No.80 (Munger to Mirza Chowki) Vs. The State of Bihar & Ors. and also CWJC No.8093 of 2019 titled as Pratijnya, Social Organisation Vs. Union of India & Ors. (Order dated 06.03.2020; 16.09.2020; and 17.02.2021).

So as to avoid repetition of facts, we deem it appropriate to reproduce two orders passed in these petitions.



In CWJC No.8093 of 2019 (supra), on 06.03.2020, we had passed the following order:-

“From the affidavits dated 05.03.2020 (7th supplementary counter affidavit), sworn by Sri Rana Prbhas Chandra, Executive Engineer, NH Division, Gaya, which is in compliance of our earlier order dated 28th February, 2020, it appears that the issue with regard to the settlement of the market value of the lands pertaining to Mouza Saren, District Jehanabad, now stands resolved. Sl.No. 15(a) (page 12) of the affidavit, indicates that the market value, which, according to the State, is just, fair and reasonable, stands determined on re-examination and, as we are now informed by the learned Additional Solicitor General, as instructed by Colonel Chandan Vats, Regional Officer, National Highway Authority of India, Patna, stands accepted by the National Highway Authority of India.

He further states that within four working days the amount towards the compensation shall be remitted by National Highway Authority of India into the account of land acquisition authorities of Jehanabad. Sri Vivek Kumar Singh, Additional Chief Secretary, Revenue and Land Reforms Department, states that upon receipt of the said amount, the compensation amount shall be disbursed to the rightful owners/claimants immediately under the provisions of the National Highway Authority of India Act. The timeline prescribed therein shall be adhered to strictly. Sri Kumar states that with the disbursement of the undisputed amount to the rightful claimants, the



possession of the acquired land shall be handed over, free from all encumbrances, and after demarcation, to the National Highway Authority of India. This shall be done within one month from today.

Position is the same with regard to Kodihara reflected at Sl.No. 6(c) (Page No. 9) of the affidavit.

We find that the issue with regard to fixation of market price with respect to village Pakri still remains unresolved. We are informed that the State has already constituted a high level committee, as envisaged under a Circular issued by the Revenue Department. We are of the considered view that the Committee needs to be expanded inasmuch as there is no representation on behalf of Government of India/ National Highway Authority of India, who, in fact, have to make payment.

As such, we direct that the three persons i.e. Sri R.P. Singh, Regional Officer, Ministry of Road Transport & Highways, Colonel Chandan Vats, Regional Officer, National Highway Authority of India, and Sri P.R. Pandey, Project Director, Gaya, shall be part of the Committee.

Let the Committee immediately undertake the exercise of determining the market value which is just, fair and reasonable and submit its report on or before 17.03.2020, the time which is sought by the committee itself.

We are hopeful that the members of the Committee would be able to have the issues resolved.

From the affidavit filed by Sri Vikas Kumar Singh, Additional Chief Secretary, it is clear that, in the State of Bihar, there are 29 National Highways Projects given in a



tabulated form hereinunder:

Sl.No.	Name of the Project	Concerned Districts
1	N.H. 527 C (Majhauri – Darbhanga - Choraut)	Muzaffarpur, Sitamarhi, Madhubani, Darbhanga
2	N.H. 80 (Munger-Mirzachauki)	Bhagalpur, Munger
3	N.H. 83 (Patna – Gaya – Dobhi Division)	Jehanabad, Gaya, Patna
4	N.H. 02 (Aurangabad – Varanasi Division)	Aurangabad, Kaimur, Rohtas
5	N.H. 2 (Aurangabad – Chordaha Division)	Aurangabad, Gaya
6	Ram Janaki Marg (Siwan - Mashrak)	Siwan, Saran
7	Ram Janaki Marg (Rajpatti - Chakia)	Gopalganj, East Champaran
8	N.H. 104 (Sheohar – Sitamarhi – Jainagar Division)	Sheohar, Sitamarhi, Madhubani
9	N.H. 104 (27-40 km Chakia Sheohar Division)	Sheohar
10	N.H. 104 (0-27 km Chakia Sheohar Division)	East Champaran (Motihari)
11	N.H. 77 (Hajipur – Muzaffarpur)	Muzaffarpur
12	N.H. 77 (Muzaffarpur – Sonvarsha Division)	Muzaffarpur, Sitamarhi
13	N.H. 85 (Chhapra – Gopalganj Division)	Gopalganj, Siwan, Saran
14	N.H. 19 (Chhapra – Hajipur Division)	Saran
15	N.H. 102 (Chhapra – Rewaghat – Muzaffarpur Division)	Muzaffarpur, Saran
16	N.H. 82 (Mokama – Barbiga - Biharsharif)	Shekhpura, Nalanda
17	N.H. 333 B (Approach road to the under construction Rail cum	Munger, Begusarai



	Road Bridge – Begusarai & Munger)	
18	N.H. 107 (Saharsa – Madhepura – Khagaria and Purnia)	Saharsa, Madhepura, Khagaria, Purnia
19	N.H. 31 (Bakhtiyarpur – Mokama Division)	Patna
20	N.H. 31 (Construction of bridge on River Ganga between Aunta – Simaria and approach road)	Patna
21	N.H. 131 A (Narenpur – Purnia - Katihar)	Purnia, Katihar
22	N.H. 30-84 (Patna - Koilwar)	Patna, Bhojpur
23	N.H. 30-84 (Patna – Buxar Division)	Buxar
24	N.H. 30A (Fatuha – Harnaut - Barh)	Patna
25	N.H. 106 (Bridge on river Kosi at Fulaut)	Madhepura, Bhagalpur
26	Construction of a Four Lane bridge parallel to the Mahatma Gandhi Setu	Patna
27	N.H. 57 A (Forbesganj - Jogbani)	Araria
28	Ghorghat Bridge, Munger	Munger
29	N.H. 82 (BSRDC)	Nawada, Gaya, Nalanda

As per the affidavit, the State, at this stage, could not have collected any data with regard to status of the construction of the aforesaid projects.

Perhaps, it is the Government of India/National Highway Authority of India which are in a better situation to indicate the same.

From the affidavit filed by Sri Rakesh Kumar Srivastav, General Manager, Regional Office of NHAI,



Bihar and Pradeep Kumar Lal, representing Ministry of Road Transport and Highways, it is clear that out of total outlay of 5301 k.m's. of National Highways Project in Bihar, more than 80% of the projects are either at the stage of inception, inasmuch as the D.P.R's. are being prepared or have yet not been completed despite the willingness shown by the Government of India.

Illustratively, we notice that out of 28 such projects under implementation, the acquisition proceedings with respect to at least 14 projects have yet not been completed and the progress of construction varies from 2% to 91%. In fact, on account of inaction on the part of the State in acquiring the land, as a result of the change in law, contract in relation to one project stood terminated. It is seen that the D.P.R. with regard to 16 projects has not yet been completed. Hence, in our considered view, if only the State of Bihar were to progress and the industry and the economy develop and flourish, it shall be only prudent that the process of acquisition/construction of the work is expedited through the monitoring of the Court.

For such purpose, we direct that a separate petition to be termed as "The National Highway Projects in the State of Bihar", be registered and listed on 17.03.2020. The affidavits referred to supra shall form part of the said petition. Also, Registry is directed to place on record copy of the order dated 28.02.2020 and the instant order on the record of the said petition.

We further direct the Chief Secretary, Government of Bihar to convene a meeting of all the officers, including Colonel Chandan Vats, Regional Officer, NHAI, Mr. R.P.



Singh, Regional Officer, Ministry of Road Transport and Highways and the Development Commissioner, Revenue Secretary, R.C.D. Secretary, Government of Bihar, for ascertaining the factual status with regard to the entire projects to be constructed within the State of Bihar as National Highways, to be implemented either through the agency of NHAI or Ministry of Road Transport and Highways through the Secretary, Department of Revenue and Secretary, Road Construction Department, Government of Bihar.

List on 17.03.2020 before which date, all the members of the Committee referred to supra shall file their personal affidavits indicating the steps taken for augmenting the work of construction of these projects.

List this case as also the newly filed petition on 17.03.2020.”

In the present petition, i.e. CWJC No.8900 of 2020, on 08.12.2020, we had passed the following order:-

“Let the following authorities be added as Party-Respondent Nos. 2 to 8 in the present case:

2. The Chief Secretary, Government of Bihar;
3. The Development Commissioner, Government of Bihar;
4. The Additional Chief Secretary, Road Construction Department, Government of Bihar, Patna;
5. The Additional Chief Secretary, Revenue Department, Government of Bihar, Patna;
6. The Principal Secretary, Finance Department,



Government of Bihar, Patna;

7. National Highway Authority of India through its Chairman, having its office at G-5 & 6, Sector-10, Dwarika, New Delhi
8. The Regional Officer, Patna, NHAI having its office at S.K. Puri, Patna.

Registry to make necessary correction in the cause-title.

Shri Lalit Kishore, learned Advocate General takes notice on behalf of the newly added Respondent Nos. 2 to 6.

Shri S.D. Sanjay, learned Senior Counsel accepts notice on behalf of the newly added Respondent Nos. 7 and 8.

Learned Advocate General, under instructions, states that the Government of Bihar is committed to render all assistance for timely completion of all the 29 projects, subject matter of the present petition.

To this effect, our attention is invited to the letter dated 4th of December, 2020 that of the Additional Chief Secretary, Road Construction Department, Government of Bihar, Patna, copy whereof is taken on record. The letter reads as under:

“From

Amrit Lal Meena, LAS

Additional Chief Secretary

To

Advocate General,

Bihar.



Sub: CWJC No.-8093/2019 (Pratignya Social Organasation Vs The Union of India).

CWJC No.19592/2018 (Gaurav Kuamr Singh Vs Chief Secretary Govt. of Bihar).

CWJC No-8900/2020 (The National Highways Projects in the State of Bihar Vs State of Bihar)

Ref: Your letter no.-83/Patna Dt. 25.11.2020.

Sir,

As desired vide letter under reference, following facts are being brought to your kind notice for further communication to the Hon'ble High Court:-

- i) Govt. of Bihar is giving full support in acquiring land and addressing various issues and hindrances for construction of National Highway in the State of Bihar, the testimony of which is completion of large no. of National Highway projects (Annex-I).
- ii) Further Govt. of Bihar is fully committed and extending full support on every front for early construction of 29 National Highway Projects as mentioned in CWIC No. 8093/2019. To ensure this a well established mechanism is in place to monitor the progress and resolve the issues and hindrances.
- iii) Development Commissioner, Govt. of Bihar has already communicated to the Hon'ble Court regarding commitment of Govt. of Bihar during hearing of CWJCNo.-8161/2019.

In the light of above, it is hereby requested to communicate above facts.

Yours faithfully,



(Amrit Lal Meena)”

It appears that a mechanism is in place for monitoring the progress for all the projects.

Let the persons heading the Monitoring Committee, file his personal affidavit, indicating the status with respect to all the roads, in a tabular form.

A chart be prepared indicating-(a) name of the Highway; (b) total length of the road; (c) tentative cost of the project; (d) date on which the work was to commence; (e) date on which it was to be completed; (f) whether land stands acquired or not? (g) if not, the extent of length of the road for which the land is yet to be acquired; (h) by when proceedings for acquisition would be completed? (i) whether the contract for construction of the road stands awarded or not? (j) date of agreement with the contractor; (k) stipulated date of commencement of construction; (l) stipulated date for completion of the project by the contractor.

Affidavit furnishing the said information be filed before the next date of hearing.

List on 12th of January, 2021.”

On our request, Shri Anjani Kumar, learned AAG-4, enters appearance on behalf of the State; Dr. K.N.Singh, learned Additional Solicitor General, appears on behalf of the Central Government and Ministry of Road Transport and Highways (MORTH) as also Shri S.D.Sanjay, learned Senior Advocate,



appears on behalf of the National Highway Authority of India .

The National Highway Authority of India (hereinafter referred to as the 'NHAI') has filed an affidavit indicating in a tabular form, the exact status of each one of the projects undertaken in the State of Bihar, which reads as under:-

Annexure - B

Under Implementation & Upcoming Projects					
Sr	Project Name	Total Length (Km)	Current Status	Case Status.	Date of Award
1	NH-83 – 4L Patna - Gaya -Dobhi section on item-rate (District – Patna, Jehanabad, Gaya)	127.00	Under Construction	CWJC No-8093/ 2019	15.09.2020/ 21.07.2020/ 21.07.2020
2	NH-77 – 4L of Hajipur- Muzaffarpur Section of on Annuity (District – Vaishali & Muzaffarpur)	63.17	Under Construction	CWJC No-8137/ 2020	18.11.2009
3	NH-2 – 6L Varanasi-Aurangabad section on BOT (Toll) (Districts – Kaimoor, Rohtas & Aurangabad)	192.4	Issues resolved in Bihar portion of 135 Km; Concessionaire to mobilise and start Construction	CWJC No-8161/ 2020	29.04.2010
4	NH-02 – 6L Aurangabad - Chordaha section (Districts – Aurangabad & Gaya)	69.52	Chakbandi issue in Gaya remains unresolved.		Yet to be awarded
5	NH-80 – 4L of Munger – Mirzachauki section from Km 69+520 to Km 195+580 on HAM (Districts – Munger, Bhagalpur & Sahebganj)	125.00	Project Awarded; LA delayed	CWJC 8032/ 2021	22.02.2021 / 03.03.2021
6	NH-31 – 6L Aunta - Simaria Ganga Bridge on HAM (Districts – Patna & Begusarai)	8.15	Issues resolved; Under Construction; May be dropped		31.08.2017
7	NH-102 – Chhapra - Rewaghat - Muzaffarpur section on EPC (Districts – Saran & Muzaffarpur)	73.07	Issues resolved; Project Completed; May be dropped. ✓		31.08.2015
8	NH-85 – Chhapra - Siwan- Gopalganj section on EPC (Districts – Saran, Siwan & Gopalganj)	94.26	Issues resolved. Likely completion by 15.05.2021. May be dropped.		31.08.2015
9	NH-77 – Muzaffarpur - Sonbarsa Section on BOT (Annuity) (Districts – Muzaffarpur & Sitamarhi)	82.60	Issues resolved; Project Completed; May be dropped. ✓		05.07.2010
10	NH-57A – Forbesganj – ICP at Jogbani section on EPC (District – Araria)	9.26	Issues resolved. Likely completion by 15.05.2021. May be dropped.		31.08.2015
11	NH-82 – Biharsharif - Barbigaha - Mokama section on EPC (Districts – Nalanda, Seikhpura)	54.58	Issues resolved; Project Completed; May be dropped. ✓		31.08.2015



12	NH-19 – 4L Chhapra - Hajipur section on BOT (Annuity) (District – Saran)	66.74	LA, Electrical shifting and financing issues remain. 2.4 Km not available. Under Construction	Needs to be Segrigated from CWJC No-8900 /2020	13.05.2010
13	NH-107 – Maheshkunt -Saharsa-Purnea section (Pkg II) on EPC (Districts – Khagaria, Saharsa & Madhepura)	87.96	LA and encroachments remain. 4 Km not available. Under Construction	Needs to be Segrigated from CWJC No-8900 /2020	31.03.2017
14	NH-107 – Maheshkunt-Saharsa-Purnea section (Pkg I) on EPC (Districts – Madhepura & Purnea)	90.00	LA and encroachments remain. 6.91 Km not available. Under Construction	Needs to be Segrigated from CWJC No-8900 /2020	05.01.2018
15	NH-333B – Approach Road to Rail-cum- Road Bridge over Ganga at Munger (Districts – Munger & Begusarai)	14.52	LA issues. 650m not handed over. Under Construction.	Needs to be Segrigated from CWJC No-8900 /2020	31.03.2017
16	NH-527C – Majhauri- Charout section on EPC (Districts – Muzaffarpur, Darbhanga, Madhubani & Sitamarhi)	63.66	LA issues. About 30 Km not available. Under Construction	Needs to be Segrigated from CWJC No-8900 /2020	28.03.2018
17	NH-84 – 4L Bhojpur- Buxar section on EPC (Districts – Bhojpur, Buxar & Balia)	47.90	LA issues. 2.735 Km not available. Under Construction.	Needs to be Segrigated from CWJC No-8900 /2020	17.08.2015
18	NH-30&84 – 4L Koilwar- Bhojpur section on EPC (Districts – Patna & Bhojpur)	43.85	LA issues. 1.955 Km not available. Under Construction.	Needs to be Segrigated from CWJC No-8900 /2020	17.08.2015
19	NH-31 – 4L Bakhtiyarpur - Mokama section on EPC (District – Patna)	44.6	LA issues; 20 Km not available; Under Construction	Needs to be Segrigated from CWJC No-8900 /2020	31.12.2015
20	NH-131A – 4L from of Narenpur - Purnea Section on HAM (Districts – Katihar & Purnea)	49	LA issues in Purnea and Katihar districts: 339 Structures to be demolished. Under Construction	Needs to be Segrigated from CWJC No-8900 /2020	09.09.2020
21	Danapur – Bihta Elevated Corridor (District – Patna)	23.50	3(D) held up by State	Needs to be Segrigated from CWJC No-8900	Yet to be awarded



			/2020	
22	NH-227A – Ram Janki Marg (Siwan - Masarakh Section) Pkg-I (Districts – Siwan & Saran)	51.85	3(D) to be expedited.	Needs to be Segregated from CWJC No-8900 /2020 Yet to be awarded
23	NH-227A – Ram Janki Marg (Rajapatti - Faizullahpur - Chakia Section) Pkg-II (Districts – Gopalganj, Saran, East Champaran)	32.00	3(A)/ 3(D) to be expedited.	Needs to be Segregated from CWJC No-8900 /2020 Yet to be awarded
24	NH-31 – Simaria (Km. 206.050) to Khagaria (Km. 266.282) on EPC (Districts – Begusarai – Khagaria)	60.23	Under Implementation.	No Issues 31.12.2015
25	NH-28A Balance Work of Piprakothi-Motihari-Raxaul on Item Rate (District – East Champaran)	68.6	Under Implementation.	No Issues 10.12.2018
26	NH-30 – Ara - Mohania Pkg - I & II (Districts – Bhojpur, Buxar, Rohtas & Kaimoor)	115.55	Under Implementation.	3(D) to be expedited. 14.09.2020
27	NH-30 – Patna Bakhtiyarpur section on BOT(Toll) (District – Patna)	50.45	Under Implementation.	No Issues 30.12.2010
28	NH131G – 6L of Kanhauli - Ramnagar (Patna Ring Road PKG-I) on HAM (District – Patna)	39	Project Awarded.	No Issues Appointed date pending
29	NH-131G – Sherpur – Dighwara section of Patna ring road (Districts – Saran & Patna)	15	Bid not yet invited.	3(D) to be expedited. Yet to be awarded
30	NH-131G – Kanhauli – Sherpur section (District – Patna)	11.2	Bid not yet invited.	3(D) to be expedited. Yet to be awarded
31	NH31 – 4L Bakhtiyarpur-Rajauli Pkg-I from km. 47.723 to km. 54.405 (District – Nawada)	6.68	Bid not yet invited.	3(D)/ Wildlife to be expedited. Yet to be awarded
32	NH31 – Bakhtiyarpur-Rajauli Pkg-II & III from km. 54.405 to km.152.520 (Districts – Patna, Nalanda & Nawada)	98.12	Project Awarded.	Balance 3(D) to be expedited Appointed date pending
33	NH-31 – 2nd Flyover (LCW) Parallel to Existing Flyover in Kishanganj Town (District – Kishanganj)	3.18	Under Implementation.	No issues. 28.03.2018



34	NH-327E – 4L of Galgalia - Bahadurganj section Pkg-I & II on EPC (Districts – Kishanganj & Araria)	94	Project Awarded.	3(A) for additional land/ Forest Clearance to be expedited.	Appointed date pending
35	NH-227J, 227L, 527A, 327E – Umagaon – Saharsa Pkg-I, II, III & V	127.75	Bid not yet invited.	3(A)/ 3(D) to be expedited.	Yet to be awarded
36	NH-527A – Umagaon-Saharsa (Package-IV) Koshi Bridge & approach Road - (Bheja-Bakaur) (Districts – Madhubani & Supaul)	13.3	Under Implementation.	No issues.	01.10.2019
37	NH-27 – Elevated corridor in Gopalganj Town (District – Gopalganj)	2.75	Bid not yet invited by HQ, NHAI.	No Issues.	Yet to be awarded
38	NH-31 – Elevated corridor in Begusarai Town (District – Begusarai)	4.26	Bid not yet invited by HQ, NHAI.	No Issues.	Yet to be awarded
39	NH-28 – 4L of Muzaffarpur - Barauni section (Districts – Muzaffarpur, Vaishali, Samastipur & Begusarai)	108	DPR in progress.		Yet to be awarded
40	NH-119D – 4L Aurangabad-Darbhanga Pkg-I, II, III & IV (Districts – Gaya, Jehanabad, Nalanda, Patna, Vaishali, Samastipur & Darbhanga)	198.39	Bid not yet invited.	3(D)/ Environmental clearance to be expedited.	Yet to be awarded
41	Adalwari – Manikpur – Sahebganj – Areraj section (Districts – Saran, Vaishali, Muzaffarpur, East Muzaffarpur & West Champaran)	114.31	Bid not yet invited.	1. NH Declaration awaited. 2. 3(D) to be expedited.	Yet to be awarded
42	NH-227F – 2L+PS Chakia-Bairgania section (Districts – East Champaran, Sitamarhi)	35	Bid not yet invited.	3(D) to be expedited.	Yet to be awarded
43	NH119A – Patna - Ara – Sasaram section (Districts – Bhojpur & Rohtas)	118	Bid not yet invited.	3(A) to be expedited.	Yet to be awarded

We notice that out of 43, only three projects are complete whereas in most of the cases, there is inordinate delay in completing the required action for: (a) acquisition of land; (b) handing over possession of land to the NHAI and/or the Contractors; (c) finalization of tenders or allotment of work by the authorities including NHAI and (d) completion of work



within the stipulated period.

We notice that out of 43 projects, this Court is already monitoring 05 projects in different petitions. Undisputedly during the time of current Pandemic Covid-19, more than 1600 Crores stands deposited by NHAI only towards cost of acquisition of land.

All the learned counsel are of the view that each one of the projects be segregated and monitored by way of separate petitions rather than it being monitored comprehensively in a single petition.

We find favour with such submission.

We notice that projects at sl. nos. 1 to 5 of the chart reproduced supra, are being monitored in separate petitions. Projects at sl. no. 7, 9, 11 are complete which do not require any monitoring.

As such, with respect to each one of the projects indicated at Sl. Nos. 6, 8, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42 and 43, we direct registration of separate petitions.

The title of the petition shall be the name indicated in Column No. 2 with respondents as parties as arrayed in CWJC



No. 8900 of 2020 with the only exception of the District Magistrate(s).

The particulars of the Respondent District Magistrate(s) to be impleaded as parties, project-wise, be supplied to the Registry for impleadment in each one of the petitions.

Learned Registrar (List) to immediately take appropriate action.

List all these petitions through virtual mode on 25.03.2021.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

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