

For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Dr.K.N. Singh,Additional Solicitor General
Mr. Pawan Kumar, A.C. to A.G.
(In Civil Writ Jurisdiction Case No. 15802 of 2022)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Dr.K.N. Singh,Additional Solicitor General
Mr. Pawan Kumar, A.C. to A.G.
(In Civil Writ Jurisdiction Case No. 15803 of 2022)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Dr.K.N. Singh,Additional Solicitor General
Mr. Pawan Kumar, A.C. to A.G.
(In Civil Writ Jurisdiction Case No. 15804 of 2022)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Dr.K.N. Singh,Additional Solicitor General
Mr. Pawan Kumar, A.C. to A.G.
(In Civil Writ Jurisdiction Case No. 15805 of 2022)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Dr.K.N. Singh,Additional Solicitor General
Mr. Pawan Kumar, A.C. to A.G.
(In Civil Writ Jurisdiction Case No. 15806 of 2022)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Dr.K.N. Singh,Additional Solicitor General
Mr. Pawan Kumar, A.C. to A.G.
(In Civil Writ Jurisdiction Case No. 15807 of 2022)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Dr.K.N. Singh,Additional Solicitor General
Mr. Pawan Kumar, A.C. to A.G.
(In Civil Writ Jurisdiction Case No. 15808 of 2022)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Dr.K.N. Singh,Additional Solicitor General
Mr. Pawan Kumar, A.C. to A.G.
(In Civil Writ Jurisdiction Case No. 15809 of 2022)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Dr.K.N. Singh,Additional Solicitor General
Mr. Pawan Kumar, A.C. to A.G.
(In Civil Writ Jurisdiction Case No. 15810 of 2022)
For the Petitioner/s : Mr.Sumeet Kumar Singh, Advocate
For the Respondent/s : Dr.K.N. Singh,Additional Solicitor General
Mr. Pawan Kumar, A.C. to A.G.

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE

Date : 04-05-2023

Thirty-one writ petitions are pending before this Court as a Public Interest Litigation seeking establishment of airports in almost as much as the districts that exist in the State of Bihar. In our opinion, the writ petitions would not be



maintainable, especially as a Public Interest Litigation, since it is a purely policy matter of the respective Governments to decide on the establishment of airports, the land to be acquired and so on and so forth; wherein financial viability also becomes a very important consideration. The very claim raised in all the 31 writ petitions is to have an airport in every district of Bihar. We cannot but say, it shocks the judicial mind, especially considering the jurisdictional power to interfere in such policy matters.

On expressing our minds, the learned counsel appearing for the petitioner, Shri Sumit Kumar Singh referred us to the order dated 27.02.2023 passed by another Division Bench. Therein the learned Additional Solicitor General had produced a tabular form, from which it was revealed that there are 31 Airports/Airstrips in the State of Bihar of which 21 are owned by the State Government, five belong to the Ministry of Defence and seven including two Civil Enclaves belong to the Airport Authority of India (hereinafter referred as "AAI"). There are only three out of 31 Airports/Civil Enclaves which are operational for civil flights; being the airports at Patna, Gaya and Darbhanga. The non-operational airports at Raxaul, Muzaffarpur and Jogbani come under the control of AAI, whereat, to secure the property, the authority has constructed



boundary walls and there are regular checks carried out by its officials to avoid encroachment and remove it, if necessary with the help of district administration. AAI had also made request to the State Government to provide lands including 121 acres for Raxaul and 475 acres for Muzaffarpur. There was also a proposal for AAI to develop Civil Enclaves at Indian Air Force Airport at Purnea. It was submitted that there were no bids received from the airlines for the Airports/AirStrips other than Darbhanga, Gaya and Patna despite inclusion of Raxaul, Muzaffarpur and Jogbani under UDAN (Ude Desh Ka Aam Nagrik). The State Government is required to sponsor the routes and there was no such sponsorship made under two phases of UDAN 4.0 and 4.1. The tabular chart was also extracted in the order.

The learned Advocate General who appeared on behalf of the State submitted before Court that the State Government is focusing its efforts to develop airports at Patna, Bihta, Gaya, Darbhanga and Purnea. The Patna International Airport (J.P.N.I.A) serves 10 districts, that at Gaya, 9 districts, that at Darbhanga, 11 districts and that proposed at Purnea, 9 districts. It was the submission of the learned Advocate General that the coverage would include all the districts of Bihar and the distance from each of such airports to the various places would



be less than 100 kilometers.

The Division Bench specifically noticed that whether a particular place should have an airport or not is a matter exclusively within the domain of the Executive and there is no cause for interference by the High Court, exercising jurisdiction under Article 226 of the Constitution of India. Only noticing the stand of the State Government that there was a proposal to have an airport at Purnea to cater to the need of nine major districts of the State of Bihar, the Public Interest Litigations were entertained. The State Government was also directed to inform this Court as to what steps have been taken. It was also noticed that from the chart supplied by the learned Additional Solicitor General, it was revealed that, there are a number of non-functional Airports/Airstrips in the State of Bihar wherein there has occurred unauthorized encroachments by the local inhabitants. Such lands were also not properly maintained and remain uncared for. Hence, the District Magistrates in the State of Bihar was directed to identify the illegal encroachments and take immediate steps for removal of such encroachments. There was also a direction in so far as the AAI, Union Government and the State Government to make a comprehensive plan for maintenance of such airports and air strips in the State of Bihar which are not operational.



We have to specifically notice that the Division Bench noticed the constraints of invoking the extraordinary remedy under Article 226; but proceeded so to do only with respect to the Purnea Airport and the proper maintenance and upkeep of the non-functional airports as also keeping them free of encroachments.

We see orders have been passed subsequently also regarding the removal of encroachments with specific caution directed at the District Magistrates. Today, the AAI has referred to its counter affidavit wherein it has specifically stated that the AAI had asked for 50 acres of land on the northern side of the runway at Purnea whereas 52.18 acres of land has been acquired on the southern side of the runway; which is not in accordance with the profile forwarded by the AAI. It is also pointed out that the presently acquired land would be closer to the runway and hence would occasion limitation of the passenger capacity; due to restriction of the permissible height of the terminal building, only to a single level. The AAI has also referred to the affidavit of the State, which asserts that the construction of four lane approach road, will be considered by the State of Bihar in future. Obviously, there are issues to be sorted out between the State Government and the Central Government as also the AAI. It would not be



proper for this Court to interfere with such policy decisions and it would suffice to direct the Governments as of now to ensure the proper maintenance of the lands; which are either in the ownership and possession of the AAI or the State Government. The direction in the order dated 27.03.2023 regarding the encroachments to be removed by the District Magistrates is made absolute. In the context of any encroachment of the lands dedicated for the establishment of the airport; in future it shall be kept free of encroachments and the respective owners shall be mindful of the proper upkeep of such lands. We are of the opinion that no practical purpose would be served in keeping the writ petitions pending. We cannot be monitoring or supervising the discussions between the Government in so far as the establishment of airports; which is beyond the judicial ken.

We, hence, with the above directions dispose of the batch of writ petitions.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

Anushka/-

AFR/NAFR	
CAV DATE	
Uploading Date	11.05.2023
Transmission Date	

