

Case Note: The Public interest litigation was filed for appropriate direction/order to the respondent to perform their statutory obligations of supplying pure drinking water and to remove causes which contaminate water supply in Patna. High Powered Committee was appointed which identified the reasons and suggested some short-term and longer term measures. The Court directed State Government to see that these recommendations were implemented as far as it was practicable within a period of one year.

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IN THE HIGH COURT OF PATNA

C.W.J.C. No. 2362 of 1986

Decided On: 12.09.1990

Council for Protection of Public Rights and Welfare and Ors.

Vs.

State of Bihar and Ors.

Hon'ble Judges:

B.P. Sinha and S.N. Jha, JJ.

ORDER

B.P. Sinha and S.N. Jha, JJ.

1. This writ application, which is in the nature of public interest litigation, has been filed by Shri Mahendra Prasad Gupta, General Secretary of the Council for Protection of Public Rights and Welfare and two Advocates of this Court as well as one doctor, residing in Kankarbagh Colony. This matter came up before us on several occasions and several directions were given to the respondents from time to time.

2. After hearing the learned Counsel for the petitioners and the learned Counsel appearing for the respondents Patna Municipal Corporation, State of Bihar, P. H. T. D. Patna water Board, Patna Regional Development Authority and the Biswas Board and others, we are finally disposing of this writ application.

3. In this writ application, the petitioners have prayed for issuance of writ, order or direction to the respondents to perform their statutory obligations of supplying pure drinking water and to remove causes which contaminate water supply in Patna. This application was filed in the wake of the spread of Jaundice in an epidemic form in different parts of Patna Particularly in Kankarbagh area as also in some areas which are congested. The matter was first highlighted by the press and when no corrective measures were taken by the authorities responsible for supply of pure drinking water and keeping the town clean, the petitioners took this matter to this Court.

4. Initially, we directed that the samples of drinking water be taken from different places in the town of Patna, and there should be its bacteriological examination. Samples of drinking water were taken approximately from 40 places from Patna City

area to the new capital area of Patna, and bacteriological examination of the samples revealed that the water was contaminated at majority of places, including the samples which were taken from the campus of the Patna High Court and Raj Bhawan as also from the residential quarters of some of the Judges of this Court. They were not found save for drinking purpose. However, particular vires which caused disease of Jaundice, could not be identified, as there is no laboratory in India where such test could be carried out. After considering the matter, we appointed a High Powered Committee consisting of the following persons:

- (1) Chairman & Managing Director, Housing Board, Patna.
- (2) Chairman & Vice-Chairman, P. R. D. A.
- (3) Mayor of Patna Municipal Corporation.
- (4) Chief Executive Officer, Patna Municipal Corporation.
- (5) Chief Engineer, Patna Water Board.
- (6) Engineer-in-Chief P. H. E. D.
- (7) Chairman & Managing Director, Bihar State Pollution Control Board, Patna.
- (8) Director, Public Health Institute, Patna.
- (9) Bacteriologist, Public Health Institute, Patna.
- (10) Dr. Nizamuddin, Rtd. Professor of Verology.
- (11) Commissioner & Secretary, U. D. D., Government of Bihar, Patna.
- (12) Hr. Inclu Shekhar Prasad Sinha, Senior Advocate, Patna High Court.
- (13) Dr. Shiv Narayan Singh, Professor of Medicine, Patna Medical College and Hospital; Patna,
- (14) Advocate General, Governor of Bihar, Patna High Court-Coordinator.

5. Shri Ram Balak Mahto, Advocate-General of Bihar was made Coordinator of the Committee, The Committee held several meetings, examined the matter carefully and submitted a report to this Court. The Committee after examining various aspects of the matter, found, inter alia, that water main laid in close proximity of sewer lines posed a potential danger of contamination. In Kankarbagh Colony several points were identified where water-main are passing through the sewer manholes, which are either full of sullage water or overflowing where water-mains were laid in between the two rows of buildings and alley space is overflowing with sewage and sullage water. The Committee also found that the communication pipes, leading drinking water to individual houses are passing through sewage and sullage water far through inspection chamber of domestic sewage disposal system as identified in Kankarbagh Colony, Where houses were found surrounded by sewage pond and water bacynth in full bloom and sewere drinking pipes were found to be leaking. Mainly in thickly populated and overcrowded areas like Sabjibagh Mahendru. Patna City, Tikhna Pahari, Kadamkuan. Chiniyatam communication pipes were found to be laid in close

proximity of surface drains overflowing with sullage water and at places virtually crossing the drains, thereby enhancing the chances of contamination of water.

6. It may be stated here that the present system of distribution of water in Patna is very old. It has been developed on a piece-meal basis as a decentralised system. With vastly growing population of Patna the roads have been widened. The pipes were generally laid below the flanks of the roads which in most of the cases have now fallen almost in the middle of the road bearing the direct impact of heavy vehicular traffic. This Committee also found the cause of frequent leaks in water mains. The Committee identified the following brief main sources of contamination of water:

(a) Water main passing through sewer manholes.

(b) Water main laid in close proximity or in the same trench of sewer pipes.

(c) Communication pipes passing either through inspection chamber of domestic sewage disposal system of individual's house or through alleys overflowing with sewage and sullage water,

(d) Formation of large cess pool of sewage water round about a cluster of houses all the year round.

(e) Communication pipe either laid along surface drains overflowing with sullage water or crossing it without proper covering.

(f) Leakage in water mains.

After identifying the reasons, the Committee suggested some short-term and long-term measures.

7. When the report was received we directed the respondent-State to install chlorination machines in different pumping house from where water is supplied. The Government agreed to install chlorination machines and approximately 56 machines were purchased. The attitude of some of the authorities, specially of the Matter Board (respondent No. 4) were not found to be satisfactory and we had to take various steps to get the so chlorination machines installed in the pumping stations. At some point of time it was reported that the machines have been left under the sky to rust, and we had to appoint a Committee of lawyers to find out whether those allegations were correct. Some of the allegations were partly found to be correct and on our persistent direction the chlorination machines were reported to be installed and put in operation. Apparently there was some improvement in the quality of drinking water in Patna. Complaints were also received about the menace of mosquitoes on account of pollution of water in different parts of the town, which were not only the cause for contamination of water but also breeding mosquitoes. On our direction to Patna Municipal Corporation purchased three fogging machines in order to fight mosquitoes' menace. Fogging machines were used in various parts of the town and the people had at least got some relief from mosquitoes.

8. However complaints have been made from time to time that chlorination machines are not properly used and the fogging machines are also not being used regularly. The result is that epidemics in various forms have been noticed in the town of Patna even after these schemes were brought into operation.

9. We are broadly of the opinion that some of these diseases are man-made. The State and the authorities of the various bodies, namely, Patna Municipal Corporation, Public Health Engineering Department etc. who are responsible for maintaining water supply as also for keeping Municipal areas cleaned, are not discharging their duties and functions properly. While saying so, we cannot forget that the general people residing in various areas of the City, have also got certain duties, which they do not strictly perform. The general people have also contributed in large measure in making this town dirty. The people have also to realize their responsibilities and they should not wholly depend upon the governmental activities.

10. It may also be stated here that the matter concerning unhygienic condition of Karkarbagh have been thoroughly debated in the Legislative Council of Bihar a few years back. A Committee had been constituted some time in the year 1980 and a report had been submitted by the said Committee in 1982. At one point of time we wanted to know from the concerned authority as to what action had been taken pursuant upon the report of the Committee of the Legislative Council. It appears that the report of the Committee was pit in the cold storage and nothing was done. However, it was for the Legislative Assembly to see and get their report and the recommendations implemented. So far as this Court is concerned, on the basis of the recommendation of the High Power Committee appointed by us, we direct the authorities concerned to take up the same as loan term and short term measures for supply of pure drinking water, as also for eliminating the mosquitoes menace.

11. Accordingly, as short term measure we direct the Patna Municipal Corporation (respondent No. 2) and the Patna Water Board (respondent No. 4) to do the needful as follows:

(a) To test the drinking water every month, as required under Rule 16 of the Patna Municipal Corporation Water Works, etc. Rules, 1972, and the public should be kept informed about the result of the test through the press and should be advised to take precautionary measures from time to time whenever and wherever needed.

(b) The forgoing machines should be used, according to pre-published plan in every locality of the town at least twice a month, and if in case three forgoing machines are not sufficient for this purpose the State Government should acquire more fogging machines for it.

(c) The open drains should be cleaned by the Patna Municipal Corporation (respondent No. 2) and the Biswas Board from time to time.

12. As suggested by the Expert Committee, all the concerned authorities should take steps and long term measures should be undertaken by the concerned authorities as quickly as possible. We realize that the task is stupendous and any authority will have to take great strain and make efforts to separate the water mains from sewerage, etc. But if it is not done the future of this city is bleak, as the population is growing every day and problems are also increasing. Constant efforts have been made in this direction. We, therefore, direct the State of Bihar through the Chief Secretary and the Commissioner of Urban Development Department to see that these recommendations are implemented as far as it is practicable within a period of one year.

13. Serious complaints have been received that most of the man-holes in the town are uncovered and have been left open causing serious danger to the life of the people in Patna. The Patna Municipal Corporation (respondent No. 2) is directed to cover the man-holes wherever it is found open within a month from today, either by iron frame or by concrete.

14. While parting with this case, who must appreciate and thank Mr. Indu Shekhar Prasad Sinha, who has lead a team of lawyers appearing for the petitioners. They have done a great job and have taken very great pains in the interest of common people living in the city of Patna. We also appreciate and thank Mr. Birendra Mohan Singh, learned Counsel appearing for the Patna Municipal Corporation, Mr. Dayal appearing for the Biswas Board and Sharwan Kumar, appearing for the Patna Regional Development Authority. We also thank Shri Ram Balak Mahto, learned Advocate-General of Bihar without whose assistance it would have been difficult to achieve the report of the Expert Committee. He spared much time to assist the Court. We also express our thanks to all the members of the Expert Committee who have taken great pains in submitting the report. They all have given us full assistance not only in identifying the problems but also in finding out of the solution. Into hen of the appreciation of the voluntary work done by the lawyer appearing for the petitioners Council for Protection of Public Rights and Welfare, we direct the respondent State to pay a sum of Rs. 5,000 (Rupees Five thousand) to Mr. Mahendra Prasad Gupta, General Secretary of the Council for the Protection of Public Rights and Welfare within one month from today not as cost but for appreciation of their work. This payment should be made to Shri Gupta through the learned Government Pleader No. 1.

15. With the above observations and direction this writ application is, accordingly, disposed of at the dismissal stage itself.

16. Let a copy of this order along with a copy of the report of the Expert Committee, appointed by us, be forwarded to the Chief Secretary, Government of Bihar, Patna and the Commissioner of Urban Development Department, Patna for information and necessary action in the matter in terms of our direction given above.

17. Let a copy of this order be handed over to the learned Counsel for the petitioners, learned Counsel appearing for the Patna Municipal Corporation and the learned Government Pleader No. 1. Mr. Shravan Kumar learned Counsel for PRDA and the learned Advocate General.

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