

(2016) 12 JH CK 0002

JHARKHAND HIGH COURT

Case No: W.P. (PIL) No.1872 of 2010 With I.A. Nos. 1902 of 10, 2821 of 10, 477 of 11, 770 of 11, 832 of 11, 861 of 11, 993 of 11, 1034 of 11, 1183 of 11, 1251 of 11, 1255 of 11, 2036 of 11, 2589 of 11, 3654 of 11, 1036 of 12, 971 of 11, 7753 of 10, 2742 of 16 and

Ashish Kumar Singh

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision: Dec. 8, 2016

Citation: (2017) 2 AIRJharR 175

Hon'ble Judges: Mr. D.N. Patel and Mr. Ratnaker Bhengra, JJ.

Bench: Division Bench

Advocate: M/s. Rajeev Kumar, Pnki Ray, O.P. Singh, Vishal Kumar, Niranjana Singh and Krishna Muari, Advocates, for the Petitioner; M/s. R.R. Mishra (GP-II), LCN Shahdeo (GP-IV), Arbind Kumar, Arbind Kumar Singh, S.S. Kumar, Kumari Rashmi and Navin Kr Singh, Advocate

Final Decision: Disposed Off

Judgement

D.N. Patel, J.—Having heard both sides and looking to the facts and circumstances of the case, it appears that the main object of the of this petition by this vigilant petitioner is to have encroachment-free roads in the State of Jharkhand and more particularly, in the capital city of Jharkhand ♦ Ranchi. The prayers in this writ petition are as under: -

(a) For a direction upon the respondents especially respondent no.6, 7 and 8, 9 to enquire and investigate the encroachments of the major shopping complexes, multistories residential/commercial complexes and shopping malls, who have illegally and unauthorisedly constructed shops in their parking areas, marked in their sanctioned plan and forcing their own vehicles and vehicles of their customers to occupy the roads throughout the city of Ranchi causing acute traffic congestion and obstruction, in the movement of common public in the city of Ranchi.

(b) For the direction upon the respondents to immediately remove such encroachments from the major shopping complexes, commercial complexes, shopping malls and shops in the prime roads of Ranchi by using legal means so that, the vehicles parked on the roads causing traffic jam and standstill traffic may move smoothly and direction upon the respondents especially respondents no.4 and 5 to lodge formal criminal cases against those politicians, who are causing gross interference in their administrative work, irrespective of their power and position.

(c) For the direction upon the respondents to remove encroachments from the public lands, from the fringe of the roads, and direction may be issued upon the respondent no. 6, 7 and 8, 9 to remove all other encroachments from the prime roads, like Main Roads, Kutchery Roads, Station Road, Circular Road, Bye Pass (Mahatma Gandhi) Road, Ratu Road, Booty Road, etc without fear and favors and impose penalty upon those who are indulging in encroachment, deviation and illegal construction causing serious traffic hazards to the people of Ranchi.

(d) For the direction upon the respondents to implement master plan with reference to the broadening of the roads, as enunciated by the Ranchi Regional Development Authority since long and due to interference on top political and executive level causing the implementation of master plan to standstill converting the city of Ranchi, (which is a capital city) into slum and direction may also be issued to the respondents especially respondents no.6, 7 and 9 to submit the status report of the compliances of the removal of all unauthorized construction deviations from sanctioned plan and traffic position time to time before this Hon'ble Court so that, major problem of traffic congestion/jam can be overcome to the maximum.

(e) For direction upon the respondents to demolish those structure of the shopping complexes, residential complexes etc whose space was meant for parking of the vehicles, but the same has been utilized for the construction of the shops.

(f) For the direction upon the respondents to suggest the other ways out, by way of construction of fly overs at important junction of the city, and pathways so that, the mixed traffic speed may be smoothened.

(g) For the direction upon the respondents especially respondent no. 2 & 3 to explain to this court as to whether 10 years of the creation of the state, this govt. ever proposes to have its new capital likewise in Chattisgarh & Uttranchal.

(h) For the direction upon the respondents no.5 to explain to this court as to what steps he is going to adopt for improvement of traffic in city of Ranchi.

(I) For any other appropriate relief or, relief(s) as your lordships may deem fit and proper in the light of the facts and circumstances of this case.

2. Having heard both sides and looking to the counter affidavits filed by the respondents-State, it appears that;

Time & gain encroachment removal drives have already been started by the State, Enough steps have been taken for the poor persons who are claiming to be the self-employed persons on roads, to remove their encroachment by the State,

Petitioner cannot expect from this Court that general order can be passed by this Court that nobody should violate any law, because, such type of orders are very difficult to be executed and in case of any contempt, it will be extremely difficult for this Court to initiate actions.

Nonetheless, we, hereby, direct the State of Jharkhand and its instrumentalities that,

(a) Proper hoardings, notices, etc should be placed at conspicuous places of the cities/towns/villages not to have encroachments upon the public roads and the public premises, which create adequate awareness. At a regular intervals, such type of advertisements should also be given in the print and electronic media.

(b) Proper, adequate and sufficient places should be given to the hawkers, etc where they can carry out their businesses with a nominal cost of rent which may be known as "Vending Zone" in the Cities/towns/villagers.

(c) Proper survey should also be made that who are the persons who are normally/regularly are the encroachers on the footpaths, so that whenever any alternative places are given, those are already having their shops or the showrooms may not occupy the Government alternative accommodations. Such type of alternative accommodations should be given to the regular vendors on footpaths those who are poorer having no alternative arrangement, so that the roads may be free from encroachments.

Nothing has been pointed out by the counsels for the respondents that the State has ever granted any plot or smallest construction/property to such type of poor vendors on footpaths. Initiatives ought to have been taken by the high-ranking administrative officers either to allot small plots or places or to give constructed area may be 10x10 feet areas, so that real the encroachers may go in such type of places or plots.

The high-ranking administrative officers ought to have thought of such type of plans which should be based upon scientific data collected by the State. Always the policies must be based on scientific basis of data, otherwise, there shall be hazardous policy and once it is drafted, many more will be the amendments.

It is expected from the State of Jharkhand that from other States, their policies in this regard may also be collected and better policies may be evolved, so that small vendors on footpath can get places given by the Government at a nominal rent and they can earn their livelihood and they may be dependent upon themselves.

3. With these observations and directions, this writ petition is, hereby, disposed of and we see no reason to further monitor encroachment in the State of Jharkhand.

Petitioner is at liberty to file fresh petition in case of any difficulty with proper averments, allegations and annexures and with proper survey in the cities/towns/villages in this regard.

4. The above-mentioned Interlocutory Applications also stand disposed of in view of the final order passed in this Public Interest Litigation.