**IN THE HIGH COURT OF JUDICATURE AT PATNA**

(CIVIL WRIT JURISDICTION)

C.W.J.C. No. \_\_\_\_\_\_\_\_\_ of 2019

In the matter of an application under Article 226 of the Constitution of India;

And

In the matter of:

1. **Vishal Kumar Singh** aged about 23 years (Male) Son of Shri Ram Darshan Singh, resident of Ram Raj Path, Judges Colony, R.P.S. More, New Bailey Road, Danapur, Patna- 801503
2. **Ashwani Kumar** aged 23 years (Male) Son of Shri Raj Kishore Singh, resident of 6MF/5/178, B.H.Colony, Bhootnath Road, Patna-800026

 ……………………………..**Petitioners**

Versus

1. The State of Bihar through its Chief Secretary, Govt. of Bihar, Main Secretariat, Patna-800015, Bihar.
2. The District Magistrate, District of Patna, State of Bihar, District Magistrate’s Office, Bankipore, Patna- 800001, Bihar.
3. Patna Municipal Corporation through its Municipal Commissioner, MauryaLok Complex, Patna-800001, Bihar.
4. Department of Health, Government of Bihar through its Principal Secretary, 1st Floor, VikasBhawan, Bailey Road, Patna-800015, Bihar.
5. Disease Control, Department of Health, Government of Bihar through its Director-in-Chief, 1st Floor, VikasBhawan, Bailey Road, Patna-800015.

 ……………………**Respondents**

To,

The Hon’bleMr. Justice A.P. Shahi, the Chief Justice of the High Court of Judicature at Patna and his companion Justices of the said Hon’ble Court.

The humble petition on behalf of the petitioners above named.

**MOST RESPECTFULLY SHEWETH :**

1. This instance writ petition is being preferred in public interest for the grant of following reliefs:
2. For the issuance of a writ in the nature of mandamus and/or any other appropriate writ, order or direction commanding upon the Respondent No.3 for de silting of sewage and cleaning of drainage across the city which has caused severe water logging problem in Patna.
3. For the issuance of a writ in the nature of mandamus and/or any other appropriate writ, order or direction commanding upon the respondents 1, 2 and 3 to take immediate steps to dewater the waterlogging in the various areas of Patna and the other necessary actions with regard to the safety and security of the residents of the water-logged areas in the Patna.
4. For the issuance of a writ in the nature of mandamus and/or any other appropriate writ, order or direction commanding upon the Respondent no. 3 to immediately remove the dead bodies of the animals from the waterlogged areas.
5. For the issuance of a writ in the nature of mandamus and/or any other appropriate writ, order or direction commanding upon the respondents 1, 2 and 3 to provide safe and clean drinking water, food, milk and anti-mosquito coils to the people stuck in the waterlogged areas of the city.
6. For the issuance of a writ in the nature of mandamus and/or any other appropriate writ, order or direction commanding upon the respondents 4 and 5 to provide necessary lifesaving drugs and medical support to those families in the waterlogged areas who are unable to go out on the streets.
7. For the issuance of a writ in the nature of mandamus and/or any other appropriate writ, order or direction commanding upon the respondents 1, 2 and 3 to arrange mobile toilet facilities Van/ vehicle in waterlogged areas so that the people do not defecate in open and dispose the wastes in waterlogged areas.
8. For the issuance of a writ in the nature of mandamus and/or any other appropriate writ, order or direction commanding upon the respondents 2 and 3 to cover the open manholes in the city and mark them with a signboard of danger so that people who are passing through such waterlogged areas can be alert in advance.
9. For the issuance of a writ in the nature of mandamus and/or any other appropriate writ, order or direction commanding upon the respondents 3, 4 and 5 to immediately start fogging of anti-mosquito and anti-bacterial drugs in the waterlogged areas of the city.
10. For the issuance of a writ in the nature of mandamus and/or any other appropriate writ, order or direction commanding upon the respondents 3, 4 and 5 to spread bleaching and chlorine powders in the water of waterlogged areas so that the mosquitoes and harmful insects can be killed.
11. For the issuance of a writ in the nature of mandamus and/or any other appropriate writ, order or direction commanding upon the Respondents 4 and 5 to immediately start the medical camps in the water-logged areas in Patna order to tackle the epidemic of Dengue, Malariya, Chikungunya virus infection, Diarrhoea and several other water borne diseases waterlogging situation due to non-functioning of the drainage system of the city; to appoint a high level monitoring committee to assess and analyse and assess the preparedness to deal with flood like situations especially during torrential rain by the Respondents and submit a report suggesting preventive and remedial measures to ensure safe and healthy environment for the residents of Patna.
12. For the issuance of a writ in the nature of mandamus and/or any other appropriate writ, order or direction commanding upon the Respondent Authorities to ensure regular visit of ASHA and Angnawadi worker so that the necessary services to Pregnant woman and lactating mothers like ANC, PNC, Nutrition, Immunization is not affected due to water logging in the affected areas.
13. For the issuance of Writ in the nature of mandamus or direction commanding upon Respondent No. 1 to compensate the victims who have been affected by the flood and water logging which inflicted severe damages.
 AND/OR
14. Any other relief/s which this Hon’ble court deems fit in the Public Interest.
15. That the instant petition is being preferred, among others to be urged at the bar, on the following:

**Grounds:**

1. Whether the State Government has been gravely negligent with regard to the planning for the development of proper drainage systemfor the city of Patna as the clean and sanitized environment is the basic requisite for the Right to Life under the Article 21 of the Constitution of India?
2. Whether the Patna Municipal Corporation has come up with any active and effective measures for the proper drainage system and planning in reference to the waterlogging which occurred and was the cause for enormous problems to the livelihood of lakhs of resident of the city?
3. Whether the District Administration of Patna District and the Patna Municipal Corporation has done the preparatory exercise before the heavy rainfall on 27.09.2019 as the weather forecast is released one week in advance by the Indian Metrological Department, Ministry of Earth Sciences, Govt. of India?
4. Whether the Patna Municipal Corporation has failed to provide dewatering systems in the waterlogged areas of Patna?
5. Whether the District administration of Patna and the Patna Municipal Corporation has established sufficient number of sump houses in the city of Patna for the purpose of dewatering the water logged areas?
6. Whether the Patna Municipal Corporation has failed to provide for proper functioning and monitoring of the various sump houses in the city of Patna?
7. Whether the ambitious projects of the government such as ‘NamamiGange’ and ‘Patna Smart City Project’ has been a hindrance for the District authority and Patna Municipal Corporation in development of the proper drainage system?
8. Whether there was any route chart and planning by the National Disaster Response Force and State Disaster Response Force to tackle the situation of severe waterlogging in the city of Patna?
9. Whether any Relief Centres were established by the government to provide shelter to the rescued people from the waterlogged areas of the city of Patna?
10. Whether the Department of Health, Government of Bihar has proper arrangements in advance to tackle any emergency situation in the water-logged areas?
11. Whether the Department of Health, Government of Bihar has proper mechanisms and preparedness to tackle the menace of epidemics like- Dengue, Malaria, Chikungunya and other water-borne filarial diseases?
12. That the Petitioner No. 1 and 2 are the citizens of India and resides within the territorial jurisdiction of this Hon'ble Court. Both of the Petitioners and the respondents are amenable to the writ jurisdiction of this Hon'ble Court.
13. That the instant writ is being filed as Public Interest Litigation by the petitioners who are public spirited persons and as such they have no vested interest in the instant writ application.

**Facts:**

1. That the lives of the residents of the Patna district has been badly affected due to the severe water-logging in the urban, suburban and rural areas of the district. The city of Patna has been facing this problem since the evening of 27.09.2019, when the state witnessed continuous torrential rainfall.
2. That the heavy torrential rainfall continued for three days, which has led to the severe waterlogging in the various colonies of the city of Patna. The District Administration has failed to address the situation with a sensitive approach accompanied by quick and effective solution in the water-logged areas of the city of Patna.
3. That the lives of the people have practically stopped functioning due to the severe waterlogging in the residential colonies and on the roads. Waterlogging has led to curfew like situation in the city of Patna. The waterlogging has led to such a condition that the people are not able to go to the offices, children are not able to go to the schools and all the schools and colleges were shut down by the notice of administration due to this problem of waterlogging. People are still living in a situation of home-arrest due to severe waterlogging in their areas. Residents of Patna are not able to fulfill their basic needs due to the heavy waterlogging on the roads. People are not getting essentials like food, milk and vegetables.

A true copy of the various news reports published regarding unavailability of the essential facilities due to heavy waterlogging has been marked and annexed as **Annexure 1 series.**

1. That the medical services collapsed in the water-logged areas of the city due to which the patients were confined to their homes. One of the senior members of the Bar and Advocate practicing at the Patna Civil Court Shri. PramodKumar (aged 59 years, Resident of Kankarbagh, Patna) died on 29.09.2019as the District Administration, National Disaster Response Force and State Disaster Response Force did not avail the ambulance facility to him on time. The Bihar State Human Rights Commission has taken suo-motto cognizance of this matter regarding death of the aforesaid Advocate due to unavailability of the medical facilities on the basis of various media reports and has asked for report from the District Magistrate and Senior Superintendent of Police to submit a report before 25.10.2019.

A true copy of the various news report published regarding death of the AdvocatePramod Kumar due to unavailability of the medical facilities has been marked and annexed as **Annexure 2.**

1. That an Electric Technician Sanjay Kumar died during repairing of the electricity in a waterlogged area in Rajendra Nagar Road No. 1 of the city of Patna on 09.10.2019 due to passing of current in the wire because of waterlogging in the area.

A true copy of the news report published regarding death of the Electric Technician Sanjay Kumar due to current in waterlogged area has been marked and annexed as **Annexure 3.**

1. That the slum dwellers and the people who usually reside in Jhuggi-Jhopdis have been affected the most. This sort of waterlogging after a spell of heavy rains was expected. The city lacks good infrastructure, and the district administration miserably failed to anticipate the deluge. The State Authorities have failed to discharge their duties.
2. That there is no planning of drainage systems and efficient sump machines are nowhere to be seen in the city of Patna. The wilful negligence by the District Administration Authorities and Patna Municipal Corporation has pushed the city to the edge of disaster. Huge number of manholes are still left open in waterlogged areas where people are fearing to come out of their homes not merely because of waterlogging but also because of the fear of open manholes on the roads of the city.
3. That as per the various media reports the District Administration and the Patna Municipal Corporation has said that they have lost the map of the drainage system of Patna. This kind of statement by the District Administration and the Patna Municipal Corporation shows the insensitive and non-serious attitude of the Government functionaries towards the problem of waterlogging.

A true copy of the media report published regarding the lost drainage map of the city of Patna has been marked and annexed as **Annexure 4.**

1. That according to the media reports Detailed Project Report (DPR) prepared by the ManhutPvt. Ltd. Company was not properly reviewed and was implemented in the city of Patna despite of various flaws in it, which has attributed further to the waterlogging in the various areas in the city of Patna.

A true copy of the news report published regarding the implementation of the DPR without review has been marked and annexed as **Annexure 5.**

1. That the teams of State Disaster Response Force (SDRF) and National Disaster Response Forces (NDRF) have been deployed in the city but they have also failed to rescue a large number of people from the areas where severe waterlogging has been witnessed. The people are still locked in their homes or roofs. There is no State government official moving to provide relief or rescue to the residents.
2. That the Deputy Chief Minister of the State Sushil Kumar Modi was also rescued from his residence by the NDRF and SDRF teams after three days. Eminent singer Mrs. ShardaSinha was rescued from her residence by a team of news anchors. neither any official staff is picking up their phone to respond to marooned people. There is no arrangement to take out the water from the roads. No pumping set or dewatering machine is installed in many areas of Gola Road, RPS More, Rajendra Nagar, Patliputra and Kadamkuan.

A true copy of the news report published regarding the rescue of the Deputy Chief Minister of the state from his residence in waterlogged area of Patna has been marked and annexed as **Annexure 6.**

1. That the rescue and relief teams of NDRF and SDRF has not acted sufficiently in the waterlogged areas of the city of Patna and people are still suffering in some of the waterlogged areas of the city in need of essential water, food and milk.
2. That the ground water of the city of Patna has been badly affected by the waterlogging and as per the media reports the water of Rajendra Nagar and BajarSamiti areas of the city of Patna are still not safe for drinking purposes.

A true copy of the news report published regarding the unsafe drinking water of Rajendra Nagar and BajarSamiti areas of Patna has been marked and annexed as **Annexure 7.**

1. That the areas of Rajendranagar, Kankarbagh, Patliputra and Gola Road are suffering from the problem of frequent electric shutdown since a few days now. Several low-lying areas such as Bazar Samiti, Anisabad and TV Tower continue to be flooded. Although the rains have stopped, in some areas, electricity, telephone and internet connections have been missing for the past ten days. Despite tall claims, the district administration has failed to drain out stagnant water and restore electricity in Rajendra Nagar area.
2. That such prolonged waterlogging in the city may further lead to the spread of epidemics like the Dengue, Malaria, Diarrhoea and Filarial diseases in the city of Patna. Carcasses of animals are floating in Rajendra Nagar Road No. 11 and people are still seen clamouring for safe drinking water and food from their rooftops and balconies.Some people have abandoned their houses and shifted to safer places.
3. That the Medical Experts have warned of outbreak of various water borne and mosquito infected diseases like Dengue, Malariya, Diarrhoea Chickungunya and other filarial diseases in the city of Patna.

A true copy of the press report published regarding the danger of water borne diseases in the areas of Patna has been marked and annexed as **Annexure 8.**

1. That there have been 108 cases of Dengue reportedly found to be positive in the city of Patna till 12.10.2019. this proves that the anti-mosquito fogging has not been done by the Government of Bihar in the waterlogged areas of the city of Patna.

A true copy of the press report published regarding the patients of Dengue in the areas of Patna has been marked and annexed as **Annexure 9.**

1. That the patients of Dengue has been reported in almost all the colonies of the city of Patna due to severe waterlogging.

A true copy of the press report published regarding the patients of Dengue in the almost all the colonies of Patna has been marked and annexed as **Annexure 10.**

1. That according to an interview of the Superintendent of Patna Medical college and Hospital (PMCH) Dr. Rajiv Ranjan Prasad published in the Times of India dated-13.10.2019, the accumulation of water and waterlogging in some parts of the city of Patna is the main reason for the rise in Dengue cases in the city of Patna.

A true copy of the interview of the Superintendent of Patna Medical college and Hospital (PMCH) Dr. Rajiv Ranjan Prasad published in the Times of India dated-13.10.2019 has been marked and annexed as **Annexure 11.**

1. That the residents of Patna have suffered huge economical losses due to the severe waterlogging the city of Patna. The motor vehicles of the residents of the city has been badly damaged due to the severe waterlogging in the city.

A news report regarding the plight of motor vehicle owners due to severe waterlogging have been marked and annexed as **Annexure 12.**

1. That there was major failure of the drainage system which was not only based on alone problem of non-functioning of sump houses but adding to the trouble was ongoing works of the development for the Smart City. In the developmental works for the Smarty City Project the natural water storages like the ponds and lakes which existed in the city were on the name of remodelling were distorted in such manner that those were not able to accumulate the city rain water which added to the worse condition of water-logging.
2. That the Patna Municipal Corporation itself has mentioned on its website as under:

‘No city is a Smart city without a proper drainage system. The foundation of every city plays an important role in the rigidity and structure of that place. Lack of proper drainage system contributes to a lot of disheartening events like flooding and collapse of buildings if the foundation is not deeply rooted.’

1. Municipal Corporation. The ongoing project of “NamamiGange” has also played its part in keeping City stranded for as many as one week if not less, still in various areas are under the effect of water logging. Under the “NamamiGange Project” the sewer pipelines are being laid down in the entire city which has led to the damage of the city drainage system by breaking drainage pipes, creating new manholes, puddles and ditches which has further assisted the accumulation of water in the City of Patna.

A true copy of the news report published regarding the NamamiGange and Smart City Project has been marked and annexed as **Annexure 13.**

1. That this Hon’ble Court in the case of Shyam Kishore Sharma, Advocate versusState of Bihar & Ors. (CWJC NO. 6192 of 1997) issued the following directions:
2. Drainage must be cleaned properly at regular intervals so that recurring problem of water-logging may be avoided.
3. Cleaning of drainage should be carried out at regular intervals under the supervision of the Sanitary Inspector, who shall file his report before the Empowered Committee and the Empowered Committee shall place the same before the Municipal Council.
4. The levels of the roads which have been raised will not be disturbed further. No public road should be constructed in such a way which crosses the plinth area. By way of an alternative arrangement scientific and sophisticated methods are to be evolved so that rain water may not inter into the dwelling houses and it may easily pass to the drains.
5. The capacity of the sump houses should be increased.
6. If there is any kind of water-logging occurs in the city, immediate actions on war footing should be carried out to get rid of such problem by taking aid of mechanical mills and other machineryfacilitating water to be passed in some other water reservoirs barring the river Ganges.
7. If water-logging still remains, the Patna Municipal Corporation shall utilize the fogging machine to prevent the menace of mosquitoes. The Patna Municipal Corporation shall see to it that the fogging machines, which are available at present, are made workable and new fogging machines are purchased by putting forth the proposal in this regard in the budget.
8. The fogging machines which are purchased be utilized in those areas where water logging problem exists and mosquitoes are spreading in geometrical measure.
9. The Municipal Authorities shall remember that health is the primary concern of every citizen and no citizen should be deprived of the same.
10. It is the sacrosanct duty of the State Government to see that appropriate budgetary allocations are made to uplift the sanitary condition preventing mosquitoes from spreading during rainy season or otherwise as also preventing any kind of water borne disease / other diseases.
11. The technical team of the Municipal Corporation shall work with the technical team of the State Government as agreed to by Mr. P.K. Shahi, learned Advocate General so that they can see to it thatthe existing underground drainage pipes are replaced with the pipes of higher diameters. That being in the domain of expertise, we have left it to the experts of the Corporation as well as that of the State.
12. The Municipal Corporation and the NBCC shall see to it that there are no open potholes in midst/flanks of the roads which may be fatal to the citizenry.
13. All efforts be made so that the drainage system works properly and no body suffers from any kind of damage due to bad maintenance of the drainage.
14. It will be the duty of the Patna Municipal Corporation to see that no citizen ties any cattle near the drainage, for when they defecate that spoils the water and also causes damage/blockage to the drains.
15. The Patna Municipal Corporation shall see that no portion of the drainage is encroached upon by the citizens and, if there is any encroachment, the same is removed in quite promptitude.
16. While sanctioning the building plans, the Municipal Corporation shall follow in letter and spirit the stipulations provided under the Municipal Act and the Rules framed there under and shall not allow any residential area to be developed unless the drainage has been sanctioned and completed.
17. The Municipal Corporation shall see to it that adequate containers are fixed and placed at such places facilitating the people of the area to put garbage therein which is lifted therefrom in quite promptitude. Public notice should be published in the newspapers making the people of the area aware that it is their duty to put the garbage in those containers and not outside and deviation may lead to prosecution as per law.
18. The State Government and the Municipal Corporation shall make people aware by electronic and print media and shall hold awareness camps so that the citizens of Patna shall cooperate to keep the city clean.
19. The competent officer of the Municipal Corporation shall see to it that polythene bags must not be thrown in the drainage and, if anyone puts the same, he may be booked under the law. It is the duty of the Corporation to keep a vigil in this regard.
20. It must be understood that the citizen cannot live in a non-sensible way in a sovereign State and the Court expects that wisdom may dawn upon municipal authorities so that the people may get rid of the perennial problems.
21. When the Patna Municipal Corporation includes Patna City area, it is the duty of the Municipal Corporation to give same importance to that area also so far the other direction are concerned.

A true web copy of the judgment delivered by this Hon’ble court in the matter of Shyam Kishore Sharma, Advocate versus State of Bihar & Ors. (CWJC NO. 6192 of 1997) has been marked and annexed herewith as **Annexure 14.**

1. That the petitioners have no other effective and efficacious remedy than to move to your lordships by way of filing this writ petition for redressal of the grievances.
2. That the petitioner has not moved earlier before this Hon’ble court in this matter.

It is, therefore, prayed that your Lordship may graciously be pleased to admit this application and issue RULE NISI calling upon the respondents to show cause as to why the relief sought for in paragraph 1 of this writ application may not be granted to the petitioners and after hearing the parties considering of the show Cause if any and allow this writ petition

AND/OR

Be pleased to pass such other order or orders writ or its direction or directions as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case for the ends of Justice.

 **And for this the petitioners shall ever pray.**