

A Blank Notice Is No Notice: Patna High Court Quashes Defective NHAI Notice for Removal of Unauthorised Occupation of Highway Land

Ramanand Singh v. State of Bihar & Ors.

Civil Writ Jurisdiction Case No. 10512 of 2026 | High Court of Judicature at Patna

Coram: Justice Rajiv Roy | Decided: 28 July 2026

The petitioner's landholding in Muzaffarpur district, Bihar, had been partly acquired for the construction of National Highway-527C (Majhauri-Choraut). After the acquisition and the highway's construction, the petitioner raised structures on the portion of his land that remained unacquired. Some years later, he received a notice from the National Highways Authority of India ('NHAI'), purportedly issued under Section 26(2) of the Control of National Highways (Land and Traffic) Act, 2002, alleging unauthorised occupation of highway land. He approached the Patna High Court under Article 226, principally seeking demarcation of his unacquired land and protection, pending such demarcation, of the construction standing on it.

The case was decided entirely on the sufficiency, in law, of the notice NHAI had issued to set removal proceedings in motion.

The Ruling

- The notice placed before the Court, though digitally signed by the authorised officer, left every operative field blank; no reference or letter number, no date of issue, no chainage or stretch of highway concerned, and no specification of the area said to be under unauthorised occupation.
- Counsel for the State and for NHAI did not attempt to defend the notice; both conceded before the Court that it could not be treated as a valid notice in law.
- The Court described the manner of its issuance as "irresponsible" for an authority of the Government of India, observing that the document read as one processed mechanically by clerical staff rather than one reflecting the independent application of mind of the officer whose signature it carried.
- The unnumbered, undated notice was quashed in its entirety. The petitioner was not required to first respond to it, participate in any proceeding under it, or exhaust an alternate remedy before obtaining relief.
- NHAI was left at liberty to issue a fresh, properly particularised notice. If it does, the petitioner, the State respondents and NHAI are to jointly fix a date to demarcate the petitioner's unacquired land.
- Costs of Rs. 5,000/- were awarded to the petitioner for the mental agony caused by the defective notice, payable within four weeks, with NHAI at liberty to recover the amount from the official responsible once accountability is fixed.

Why This Matters

- A notice under Section 26 of the 2002 Act is not saved merely by the signature of a competent officer. Absent the date, a reference number, and the specific stretch and area said to be encroached, it does not meet the threshold of a notice capable of being acted upon or answered, and is liable to be struck down on that ground alone, without the Court examining whether any encroachment in fact exists.

- This has a direct bearing on title and possession due diligence for land adjoining national highway alignments, where partial acquisition frequently leaves a residual, unacquired holding in the owner's hands. Any Section 26 notice surfacing in a client's papers is worth testing against these formal requirements before it is treated as a genuine threat to possession.
- The direction permitting NHAI to recover the cost from the erring official, rather than absorb it institutionally, sits within a wider judicial trend of fixing individual accountability for administrative lapses of this kind.
- A recipient of such a notice is not required to engage with it, or wait out any departmental process under it, before approaching the High Court, relevant wherever a client's first instinct is to wait rather than challenge a vague notice directly.

The ruling leaves NHAI's authority to act against unauthorised occupation of highway land untouched; it simply insists that the authority be exercised through a notice disclosing, at minimum, when it was issued, under what reference, and against what land. A notice that discloses none of this is not a defective notice — it is no notice, and will not survive scrutiny under Article 226.

Disclaimer: This update has been prepared for general informational purposes only and does not constitute legal advice. We would be pleased to discuss the implications of this judgment as they may pertain to any specific matter.