

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2921 of 2022

Vikas Kumar (NH-30- Ara- Mohania pkg- I and II)

... .. Petitioner/s

Versus

The Union of India & Ors.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vikas Kumar (In Person)
For the State : Mr. Anjani Kumar, AAG-4
Mr. Alok Kumar Rahi, Adv.
For the NHAI : Mr. Dr. K N Singh, Sr. Adv.
Mr. Sanat Kumar Mishra, Adv.
Mr. Shivaditya Dhari Singh, Adv.
For the UOI : Mr. Amish Kumar, Adv.
For the Res. No. 10 : Mr. Tiwari Shwetketu, Adv.

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

21 23-03-2026 In terms with the order dated 20.02.2026, a counter affidavit has been filed on 18.03.2026 by the Transport Department, Government of Bihar wherein it is stated as follows:-

“6. That in compliance of the order dated-20.02.2026 passed in the C.W.J.C. No.-2921 of 2022, the State Transport Commissioner, Bihar has conducted meeting on-06.03.2026 in the presence of the Engineer-In-Chief, Road Construction Department, Government of Bihar, Regional Authority, NHAI, Patna, Executive Engineer, MORTH and Assistant Director, Mines Geology Department, Bihar, Patna.

7. That in the said meeting, the Executive Engineer, MORTH has stated



that after construction of the road, it is handed to the N.H.A.I. for Toll Operations. The Regional Authority of NHAI has stated that there are two Toll Plazas in the Ara-Mohaniya route in which 10-weigh in motion and 4 static weigh bridge is functional. The overloaded vehicle is identified through weigh in motion and it is affirmed through static weigh bridge. However, this is related to the toll operations and toll payments which comes under the National Highway Fee Rules, 2008. In this regard the weekly report over the Toll Plaza regarding overloaded vehicles is received. There is provision to off-load the overloaded vehicles. In case of overloaded vehicles additional fees is charged along with action against them. Any road/bridge is constructed after considering all parameters and in accordance with its capacity.

8. That in the said meeting, the State Transport Commissioner has stated that the penalty and other actions are taken against the overloaded vehicles in accordance with the M.V. Act in view of the report received from the Toll Plaza. The weigh -bridges are not made by the Transport Department. As per section-113 and 114 of the M.V. Act, there is a provision for checking of the overloaded vehicles by taking it to any weighing equipment/machine within 10 KM from a fixed point or within the 20 KM of its destination. In this regard needful action is taken in light of the said provisions.

9. That the Enforcement Wing of the Transport Department states that, effective control is done with regard to the overloaded vehicles under every district. It is relevant to state that total 4,77,427 E-challans have been issued under different districts in Bihar for imposing penalty in the year 2023-24 and a total amount of Rs



2,78,22,95,626/- has been realized from the defaulters.

Further, for the year 2024-25, total 3,74,035 E-challans have been issued under different districts in Bihar and a total amount of Rs 1,92,22,44,999/- has been realized from the defaulters.

Similarly, for the year 2025-26, total 4,97,189 E-challans have been issued under different districts and a total amount of Rs 3,01,31,87,341/- has been realized from the defaulters.

In the Ara-Mohaniya route, 1,76,474 E-challans have been issued for the financial years- 2023-24, 1,65,137 E-challans have issue for the financial years-2024-25 and 1,48,210 E- challans have been issued for the financial years-2025-26 respectively. In this regard, regular action is being taken by the Transport Department through its Enforcement Wing for checking of the overloaded vehicles. Further, necessary guidelines is issued to all the District Magistrates in Bihar.

10. That in the said meeting, the Authority of the Mines and Geology Department has stated that in view of notification no.-4374, dated- 16.10.2024 issued by the Mines Department, a provision has been made for imposing a fine of minimum Rs. 1,00,000/- and maximum Rs. 10,00,000/- with regard to the to the vehicles/persons involved in illegal mining, transportation and storage and due to this there has been control in checking of the overloaded vehicles.”

2. Similarly, the 9th supplementary counter affidavit has been filed by the respondent no. 3 (NHAI), wherein it is stated as follows:-

“3. That as directed by the



Hon'ble Court vide order dated 20.02.2026 a meeting was held on 06.03.2026 which was presided over by the Transport Commissioner, Bihar, Patna and meeting was attended by the Engineer in Chief, Road Construction Department, Bihar Patna, the Regional Officer, NHAI, the Executive Engineer MoRTH, Patna and the Assistant Director Mines & Geology Department Bihar Patna.

4. That it is stated that the issues were discussed in detail and it was recorded in the minutes that 10 Mainline Weigh in Motion and 4 Static Weighbridges have been installed at the 2 Toll Plazas in the concerned project Road Arah Mohaniya Section. The MS- WIM (Mainline Weigh in Motion) systems identify the overloaded vehicles and verified at the Static weighbridge. However, this exercise is for the purpose of operation and payment of Toll under the National Highway Fee (Determination of Rates And Collection) Rules 2008 and subsequent revision.

5. That in the said meeting, as per the Transport Department, GoB under provision of Section 194 of Motor Vehicle Act 1988 the following Challans have been issued: (i) 4,77,427 no. of challans for an amount of Rs. 278,22,95,626/- in the FY 2023- 24, (ii) 3,74,035 no. of challans for an amount of Rs. 192,22,44,999/- in the FY 2024-25 (iii) 4,97,189 no. of challans for an amount of Rs. 301,31,87,341/- in the FY 2025- 26. Transport Dept. have issued over total 1,48,210 numbers of Challans on the Ara-Mohania section in FY 2025-26.

6. That in the said meeting, Mines and Geology Department has stated that in view of notification no.- 4374, dated-16.10.2024 issued by the Mines Department, a provision has been made for imposing a fine of minimum Rs.



1,00,000/- and maximum Rs. 10,00,000/- with regard to the to the vehicles/persons involved in illegal mining, transportation and storage and due to this there has been control in checking of the overloaded vehicles. After introduction of said provision there has been significant reduction in the Overloaded vehicles.

7. That the Transport Commissioner Bihar requested NHAI that the reports of overloaded vehicles at Toll Plazas are provided to the Transport Department so that action can be taken against such erring vehicles under the Motor Vehicles Act, accordingly.

8. That the NHAI shall provide reports of overloaded vehicles to the Transport Department Bihar for necessary action in accordance with the law at their end.”

3. When we passed the order on 20.02.2026 and quoted the provisions of Sections 113, 114 and 194 of the Motor Vehicles Act, 1988 (hereinafter referred to as, “Act, 1988”), we asked the learned Senior Counsel for the NHAI to obtain specific instruction as to whether in terms of specific provisions of Section 194 of the Act, 1988 wherein, it is mentioned that the overloaded motor vehicles shall not be allowed to move before the load is arranged in manner that there is no extension of the load laterally beyond the side of the body or to the front or to the rear or in height beyond the permissible limit, any steps have been taken and also to the authorities concerned, i.e. Secretary, Transport Department, Government of Bihar; Transport Commissioner, State of Bihar; Regional Officer, NHAI;



Regional Officer, Ministry of Road Transport & Highways to sit together to work out ways and means to sort out the issues.

4. Learned Senior Counsel for the NHAI pointed out Rule 10 of the National Highways Fee (Determination of Rates and Collection) Rules, 2008 (hereinafter referred to as, “Rules, 2008”) which states, *inter alia*, that without prejudice to the liability of the driver or owner or a person in charge of a mechanical vehicle under any law for the time being in force, a mechanical vehicle which is loaded in excess of permissible limit (maximum gross vehicle weight in respect of such vehicle) shall not be permitted to use the National Highway or crossing the (fee plaza) until the excess load has been removed from such mechanical vehicle.

5. Learned AAG-4 pointing out the minutes of the meeting dated 06.03.2026 conducted by the Transport Commissioner, Bihar, Patna, submitted that it appears that the provision under Rule 10 of Rules, 2008 have not been discussed in the said meeting.

6. Learned Senior Counsel for the NHAI submits that earlier some steps were taken to stop the vehicles from movement until the excess load was removed from the concerned vehicle at the owner’s risk, but it created resentment and law and order situation in the toll plaza in Varanasi and, therefore, unless arrangements are made round the clock



providing police force in all the toll plazas, it is very difficult to implement the provisions, which are either in the Act, 1988 or in the Rules, 2008 to permit the vehicle to move only after the excess load is removed.

7. Learned AAG-4 pointed out that the toll plazas are not bringing such matter to the notice of the State authorities immediately, but they are submitting weekly reports, regarding the detection of the overloaded vehicles.

8. We are of the humble view that detection of the vehicles with excess load, imposition of fine and collection of fine is one aspect, but unless the provision of removal of such excess load is strictly implemented as per the Act and Rules and all necessary mechanism are provided to prevent the untoward incident, which are likely to happen in case such provisions are implemented, the problems cannot be addressed and if the vehicles with excess load are allowed to move and ply over the bridges and roads, they are likely to cause damages, which had already happened as per the statement made by the learned Advocate General at the previous hearings. The law mandates that the vehicle shall not be allowed to move until the excess load is removed at the owner's risk. Authorities can stop an overloaded vehicle and require the offloading of excess cargo before allowing it to proceed.

9. Therefore, we expect that a fresh meeting be held



by the authorities as we have mentioned in paragraph no. 9 of the previous order dated 20.02.2026, in presence of learned Advocate General, learned AAG-4 and the learned Senior Counsel for the NHAI.

10. It is expected that all the issues, which are also likely to crop up, are to be addressed and an affidavit to that effect with suggestions, proposals etc shall be given to this Court.

11. Learned Senior Counsel brought to the notice that the 9th supplementary counter affidavit, which has been filed on behalf of the respondent no. 3 (NHAI) duly sworn by Ranjeet Kumar Verma, Project Director, Sasaram PIU, National Highways Authority of India relates only to the National Highway No. 30, Ara-Mohania, (Package-I & II). However, we have made it very clear in paragraph no. 11 of the order dated 20.02.2026 that it should be worked out for all the roads and bridges of the State of Bihar.

12. Therefore, in the next affidavit, we expect that it shall cover regarding all the roads and bridges of the State of Bihar.

13. List this matter on 20.04.2026

14. In the meantime, the affidavits shall be exchanged between the parties.

15. The meeting may be held in the chambers of the



learned Advocate General, as suggested by learned AAG-4, where the learned Senior Counsel for the NHAI and the learned AAG-4 shall remain present with the authorities, as has been mentioned in paragraph no. 9 of the order dated 20.02.2026.

16. In order to streamline everything through the coordinated effort, the learned Advocate General is expected to communicate all the authorities including the learned Senior Counsel for the NHAI the date on which the meeting would be held well in advance.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

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