

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5986 of 1998

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1. Prakash Chandra Poddar son of Late Hira Lal Poddar.
2. Kameshwar Prasad Singh son of Late Ram Bilochan Singh.
3. Dr. Ramdeo Kumar son of Late Narsingh Kumar.
4. Shyam Bihari Modi son of Late Vishwa Nath Modi.
5. Sarla Kishore wife of Dr. Birendra Kishore,

All residents of village Rewa Road, Maripur, Muzaffarpur Nos. 1-4 residents of Mohalla Juran Chapra, Road No.2 P.S. Brahmpur, Town Muzaffarpur district Muzaffarpur.

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. (Dr.) Pankaj, Adv.

For the Respondent/s : Mr. Manoj Kumar Jha, AC to GA-26.

For the Muzaffarpur Municipal Corpn. : Mr. Anuraj Saurav, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 02-04-2015

Heard counsel for the petitioner, the State and the Municipal Corporation.

In this petition, grievance has been raised that Road No.2 of Juran Chapra of Muzaffarpur town has been declared as main road for the purpose of fixation of holding tax which is arbitrary and not sustainable in law.

Claim has been made that entire Juran Chapra area itself is a commercialized area, the Muzaffarpur Municipal Corporation (for short, the 'Corporation') has illegally and wrongly picked up their rod alone leaving other roads equally commercialized area, rest roads have been declared otherwise than the main road, whereas road no.2 has only 7 to 8 houses has been declared as main road for the purpose of fixation of holding tax, cannot be justified.

Counsel for the Municipal Corporation refuted the argument and submitted that the categorization of the road is an administrative action based on

commercial activities in terms of Assessment of Annual Rental Value of Holding Rules 1993 which classifies the holdings in different categories under Rule 3. The action of the respondents cannot be said to be perverse as it is an admitted fact that the area where the petitioner resides is also a highly commercial area.

Having considered the contention of the parties this Court exercising the judicial review cannot sit over the judgment of the authorities but examine only the decision making process. Fixation of annual rental value of a building is an administrative act, unless it is shown that the classification of road has been made for ulterior reason or arbitrary, the court exercising judicial review cannot act as an appellate court. It is not in dispute that Juran Chapra itself is a highly commercial area. The municipality has declared road no.2 as the main road, leaving aside other roads. What was the basis for categorization it is for them to consider.

This Court does not feel inclined to interfere in the matter. This petition is, accordingly, dismissed. However, liberty is given to the petitioners, if so advised, he may file a representation before the Administrator of Muzaffarpur Municipal Corporation, respondent no.3 who will examine the plea of the petitioners and take appropriate decision by a reasoned order within a period of three months from the date of filing of the representation.

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(Shivaji Pandey, J)