IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7923 of 2015

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1. Binod Kumar Singh, son of Late Md. Jagarnath Prasad, resident of mohalla- Tilkamanjhi Chouk, Bhagalpur, P.S.- Tilkamanjhi, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary Government of Bihar at Patna.
2. The Chief Secretary Government of Bihar, at Patna.
3. The Principal Secretary, Urban Development Department, Government of Bihar, at Patna.
4. The Bhagalpur Municipal Corporation, Bhagalpur through its Executive Officer, Bhagalpur.
5. The Municipal Commissioner, Bhagalpur Municipal Corporation, Bhagalpur.
6. The Executive Officer, Bhagalpur Municipal Corporation, Bhagalpur.
7. The Divisional Commissioner, Bhagalpur.
8. The Joint Commissioner-cum-Secretary, Regional Transport Authority, Bhagalpur.
9. The District Magistrate, Bhagalpur.
10. The Sub- Divisional Officer, Sadar, Bhagalpur.
11. The Senior Superintendent of Police, Bhagalpur.
12. The Dy. S.P (City), Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Diwakar Upadhyaya
For the Respondent/s : Mr. ANSHUMAN SINGH- GP24
Mr. Manoj Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 03-08-2015

Heard the Counsel for the petitioner and the Counsel for the Bhagalpur Municipal Corporation (for short 'the Corporation').

The main grievance of the petitioner who claims to be the Auto Rickshaw driver using the route which falls within the jurisdiction of the Corporation is against collection of toll from him by the Settlee of the Bus Stand at Zero Mile and not against the collection of fee for using, in any manner, the Bus Stand which has been settled by the Corporation with the Settlee. Receipts have been enclosed to show that collections of toll tax is being made by the Settlee from the Auto Rickshaw driver/owner.

Counsel for the Corporation, on the other hand, submits that an agreement has been signed between the Corporation and the Settlee with respect to the Bus Stand located at the Zero Mile. Under the aforesaid agreement, the Settlee is entitled to collect stand fee for using the same by any vehicle be that the Bus or the Mini Bus or the Auto Rickshaw. In Clause 4 of the agreement, it has been incorporated that the Empowered Committee of the Corporation has resolved to collect toll tax from different vehicles at different rates including tempo/ Auto Rickshaw @ Rs. 10/-. Counsel for the respondent Corporation has further ventured to submit that the agreement has been entered with the Settlee in the light of the order of this Court dated 11.7.2013 passed in C.W.J.C. No. 8835 of 2013. This has been vehemently disputed by the Counsel for the petitioner.

I have gone through the order dated 11.7.2013 which pertain to collection of tolls from Zero Mile Bus Stand only which falls within the jurisdiction of the respondent Corporation. Obviously, the same was for the purpose of collection of stand fee or usage charge of the Zero Mile Bus Stand from the passengers' vehicles by the Settlee of the Bus Stand. Counsel for the petitioner has submitted that several instructions have earlier been issued by the Municipal Commissioner to the Settlee of the Bus Stand for desisting from collecting toll tax from the vehicles including the Auto Rickshaw who do not use the Bus Stand at the Zero Mile. Counsel for the petitioner has drawn attention of the Court to the relevant provision of the Bihar Municipal Act (for short 'the Act') and in particular Section 127(k) thereof in order to submit that any authority can collect tolls from the vehicles specified under Section 127(k) only. According to him, Auto Rickshaw does not fall within that category. Such collection of toll tax by the Settlee of the Corporation has no sanction of law.

Considering the contention of the parties, in my view, the matter can be appropriately resolved by the Municipal Commissioner of the Corporation on a representation filed in this regard by the petitioner or any aggrieved Auto Rickshaw owner/driver. Before disposing of the case, this Court would only notice the submission of the Counsel for the petitioner that Clause 4 of the agreement signed between the Corporation and the Settlee is contrary to the law as also the order which this Court passed in C.W.J.C. No. 8835 of 2013. Such submission can also be raised and considered by the respondent Municipal Commissioner on the grievance application filed by any aggrieved person like the petitioner.

Although, diverse applications are stated to have been filed before the Corporation in this regard by the petitioner but this Court would now permit the petitioner to again file a fresh application/representation raising the grievance as raised in the present application supported by documents before the respondent Municipal Commissioner for consideration and disposal in accordance with law. If any such representation is filed within three weeks, I am sure, the respondent Municipal Commissioner will examine the said grievance of the petitioner in the light of the Rule/provision, the present order as well as the order which this Court passed in previous writ petition (C.W.J.C. No. 8835 of 2013) and dispose of the same in accordance with law as quickly as possible. Whether the parties should be given personal hearing or not is left to be decided by the respondent Municipal Commissioner once such application is filed before him. Considering the fact that the petitioner is being penalized on every day, this Court would expect the Respondent Commissioner would take an appropriate decision on the representation of the petitioner preferably within three weeks from the date of filing of the representation along with a copy of the present order.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

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