# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Writ Jurisdiction Case No.14981 of 2014**

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Mahanth Sukdeo Muni Chela of Late Hansdeo Muni, resident of Bari Sangat, Rajgir, Police Station – Rajgir, District- Nalanda.

.... .... Petitioner/s

Versus

1. Nagar Panchayat, Rajgir, Nalanda through its Executive Officer, Nagar Panchayat, Rajgir, Nalanda.
2. Executive Officer, Nagar Panchayat, Rajgir, Nalanda.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Santosh Kumar Sinha -2

For the Respondent/s : Mr. Deoraj Kumar Prasad

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

ORAL ORDER

3 23-11-2015 Heard Mr. Santosh Kumar Sinha No.2, learned counsel appearing on behalf of the petitioner and Mr. Deo Raj Kumar Prasad, learned counsel appearing for the Nagar Panchayat, Rajgir, district- Nalanda.

The petitioner is aggrieved by the property tax demand bearing Memo no.80 dated 23.1.2014 issued under the signature of the Executive Officer, Nagar Panchayat, Rajgir impugned at Annexure-5 to the writ petition wherein a demand by way of holding tax to the tune of Rs.4,98,515/- has been raised for the period 2008-09 to 2013-14.

While it has been argued by Mr. Sinha, learned counsel appearing for the petitioner relying upon a circular of the Urban Development and Housing Department dated 17.10.2013 to submit that the demand has been raised on the basis of the revised rate of tax which has been stayed by the department itself but such argument has been contested by Mr. Prasad to submit that the demand so raised is on the basis of the rate of tax which was prevalent for the period 2008-09 after the enforcement of the Bihar Municipal Act, 2007 (hereinafter referred to as 'the Act') and 'the Rules' and 'Byelaws' framed thereunder. He submits that it is on a complete misconception on the part of the petitioner to submit that the demand so raised is on the basis of revised rate of tax which is totally incorrect. It is stressfully argued that the demand is on the basis of rate of tax which was in force in the year 2008-09. With reference to the assessment placed at Annexure-A and the calculation of tax made thereunder he submits that in case the petitioner is aggrieved with such assessment, then the remedy for him lies under section 141 of 'the Act' but on merits the petitioner has no case.

Having heard learned counsel for the parties and considering the stand taken by the Nagar Panchayat in the counter affidavit as well as in the supplementary counter affidavit filed today, I am not persuaded to accept the issue raised by the petitioner. The writ petition is disposed of leaving it open for the petitioner if so advised, to question the assessment made by the Executive Officer by filing appropriate application under section 141 of ‘the Act’ and it goes without saying that any such review application being filed by the petitioner questioning the assessment before the Executive Officer, Nagar Panchayat, Rajgir within six weeks from today shall be considered and disposed of in accordance with law by a reasoned order to be passed after giving an opportunity of hearing to the petitioner. It again goes without saying that the petitioner should cooperate in disposal of the matter and considering that the assessment relates to holding tax for the period 2008-09 to 2013-14 an expeditious disposal within six weeks of filing of such application would be appreciated.

It is made clear that if the petitioner fails to either file such application within the stipulated period mentioned above or cooperate in the disposal, then the Executive Officer of the Nagar Panchayat would be at liberty to proceed for recovery of tax in accordance with law.

The writ petition is disposed of accordingly.

**(Jyoti Saran, J)**

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