

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7029 of 2014

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Om Prakash Agarwal, S/o Late Suraj Banshi Prasad Agarwal, resident of
Road No. 2, New Patliputra Colony, P.S. Patliputra, District-Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department, Bihar
2. The Patna Municipal Corporation, Mauryalok Complex, Dak Bunglow Road, P.S. Kotwali, District-Patna, through its Municipal Commissioner
3. The Executive Officer, Nutan Anchal, PMC, P.S. Secretariat, District-Patna
4. The Police Inspector-cum-Officer-in-charge, Patliputra Police Station, District-Patna through, State of Bihar

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Binod Kumar Sinha, Advocate

For the Respondent/s : Mr. Ashok Priyadarshi, GA-4

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 29-06-2015 None appears on behalf of the petitioner.

Mr. Ranjit Kumar Pandey appears for the Municipal Corporation.

The writ petitioner has prayed for quashing of a direction contained in Memo No. 2105 dated 17.6.2013 of the Inspector-cum-Officer In-Charge, Patliputra Police Station, District-Patna, a copy of which is placed at Annexure-2 to the writ petition whereby the petitioner has been directed to put a stop on the constructions being carried out at New Patliputra Colony Road No. 2 adjacent to the house of Dr. D.K. Shrivastava, P.S. Patliputra, District-Patna.



A counter affidavit has been filed on behalf of the Corporation in which it is stated that it is pursuant to an order passed by the Division Bench in a Public Interest Litigation arising from CWJC No. 8152 of 2013 that a general direction was issued to the concerned authorities to ensure the compliance of the order of the Division Bench.

Mr. Pandey while submitting that it is in the light of the Division Bench order passed on 21.5.2013 that general directions had been issued by the Municipal Commissioner and pursuant thereto the Executive Engineer, Nutan Rajdhani Circle had directed the Officer In-Charge, Patliputra P.S. to restrain the on going constructions in any apartment being made within his jurisdiction but while making such submission it is admitted by Mr. Pandey on instruction that no vigilance case charging the petitioner against any deviation was ever initiated or is pending.

In view of the admission made by Mr. Pandey that there is no vigilance case pending against the petitioner apparently the directions issued by the Officer In-Charge, Patliputra Police Station dated 17.6.2013 impugned at Annexure-2 to the writ petition would be in teeth of the judgment and order of this Court passed in the case of M/s Asterisk Home Private Limited vs. State of Bihar reported in 2014(1) PLJR 197 and cannot be upheld.

For the reasons aforementioned, the restraint order issued by the Police Inspector-cum-Officer In-Charge, Patliputra Police Station dated 17.6.2013 addressed to the petitioner impugned at Annexure-2 cannot be upheld and is accordingly set aside.

The writ petition is allowed.

(Jyoti Saran, J)

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