

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17050 of 2014

Sanjeev Kumar, S/o Ram Naresh Prasad Singh, resident of Village-Bidupur, Post and Police Station- Bidupur, District- Vaishali, a partner of M/s Shri Ram Construction having registered office at 2M/61, Mahatma Gandhi Nagar, Kankarbagh, P.S.- Agamkuwan, District- Patna.

.... Petitioner/s

Versus

1. The Patna Municipal Corporation through its Municipal Commissioner.
2. The Municipal Commissioner, Patna Municipal Corporation.
3. The Vigilance Officer, Patna Municipal Corporation.
4. The Executive Engineer, Kankarbag Division, Patna Municipal Corporation.

All having their offices at Maurya Lok Complex,
Dakbunglow Road, Police Station- Kotwali, Town and District- Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Jai Ram Singh

For the Respondent/s : Mr. Prasoon Sinha

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

6 14-01-2016 Heard Mr. Jai Ram Singh, learned counsel appearing on behalf of the petitioner and Mr. Prasoon Sinha, learned counsel appearing for the Patna Municipal Corporation.

Although the writ petition was filed questioning the order dated 26.8.2014 passed by the Municipal Building Tribunal, Patna Division, Patna in Appeal Case No.06 of 2014 affirming the order of the Municipal Commissioner, Patna Municipal Corporation dated 15.2.2014 passed in Vigilance Case No.28A of 2013 requiring demolition of two rooms situated on the 4th floor of the building as also to demolish the portion of building which was beyond 11 meter, but when this



matter was taken up for consideration on 15.12.2014 it was submitted by learned counsel appearing for the petitioner that the additional construction has since been demolished and in so far as the height of the building is concerned the same is at present 12 meters which is within the permissible condonation limits of 20% as provided under Appendix-L of the bye-laws which is in force.

A counter affidavit has been filed today on behalf of the Corporation enclosing an on spot fact finding report which agrees with the submission of the petitioner as regarding the demolition and also mentions that the building at present stands at 11.92 meters, which according to the petitioner, is within the condonation permissible.

In the circumstances discussed where the petitioner has carried out the directives of the statutory authority and the portion remaining i.e. the height of the building is stated to be within the permissible limits of condonation, the orders passed by the Tribunal affirming the order of the Commissioner impugned in the writ petition stands modified to the extent that the order requiring demolition in height is set aside. The petitioner is permitted to file an appropriate application in the manner prescribed before the Municipal Commissioner for

condonation of the deviation in the height of the building together with prescribed fee which should be considered by the Municipal Commissioner on its own merit and be disposed of in accordance with law after opportunity of hearing to the petitioner. Considering the nature of relief so subsisting, an expeditious disposal preferably within a period of six months from the date of filing of such application would be appreciated.

The writ petition stands allowed with the direction aforementioned.

(Jyoti Saran, J)

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