IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18541 of 2013

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Ram Chandra Lal, Son of Late Shatrughan Lal, R/O - Purshottam Nagar, Mehsaul, Ward No. 19, (New 28), West Of Railway Generator House, P.S. - Sitamarhi, District – Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development, Government of Bihar.
2. The Principal Secretary, Urban Development Department, Government of Bihar, Patna.
3. The District Magistrate, Sitamarhi.
4. The Nagar Parishad, Sitamarhi, through its Chairman.
5. The Chairman, Nagar Parishad, Sitamarhi.
6. The Executive Officer, Nagar Parishad, Sitamarhi.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Kriahna Kant Singh
For the Respondent/s : Mr. Rajesh Kumar, GP-21

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 12-04-2016

Heard Mr. Krishna Kant Singh, learned counsel for the petitioner and learned counsel for the State.

This is a second round litigation by the petitioner to question the imposition of holding tax by the Municipality. He earlier came before this Court in CWJC No.480 of 2010 and the relevant extract of the Court's order present at Annexure-1 runs as follows:

> "Any dispute that the petitioner may have with regard to the period for which the dues may pertain and the quantification and calculation of dues is an entirely different matter which can be pursued by the petitioner before the appropriate authority/forum in accordance with law. The failure of the Nagar Parishad to provide municipal services may not be

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sufficient to deny liability for statutory taxes."

In so far as the quantification of holding tax is concerned liberty was granted to the petitioner to seek his remedy before the appropriate authority/forum under the provisions of the Bihar Municipal Act, 2007 (hereinafter referred to as 'the Act'). In fact this Court was very specific when it observed that a failure to provide services is not a sufficient cause to deny liability. The petitioner yet did not deposit the tax and came complaining in MJC No.1371 of 2012 that the facilities are yet not being provided. A Coordinate Bench taking note of the complaint coupled with the fact that the holding tax yet remained outstanding with the petitioner, did not find ground to proceed in contempt which was dismissed. The petitioner has again come before this Court questioning the order dated 7.8.2013 of the Executive Officer, Nagar Parishad, Sitamarhi raising demands towards the arrears of tax.

Although Mr. Krishna Kant Singh endeavors to submit that pursuant to the liberty granted by the Court in CWJC No. 480 of 2010 the petitioner had represented the authorities but in view of the clear stipulation present in the order of this Court annexed at Annexure-1 wherein it was held that a failure to provide facility is not sufficient to deny a liability, I am not persuaded to grant indulgence to the issues raised. The liberty already present in the said order and recourse available under ‘the Act’, no cause for indulgence is made out. The writ petition is accordingly disposed of.

(Jyoti Saran, J)

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