IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12341 of 2016

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1. Kumar Kamakhya Narayan Prasad Gupta, Son of Late Anant Lal Prasad Gupta, Resident of Tej Pratap Nagar, P.S.- Beur, P.O.- Anishabad, District- Patna.
2. Birendra Kumar Singh, Son of Sri Sadhu Saran Singh, Resident of A/249, A.G. Colony, P.O.- Ashiana Nagar, P.S.- Shastri Nagar, District- Patna.
3. Santosh Kumar Verma, Son of Sri Ram Chandra Sahu, Resident of Ashiana Colony, P.S.- Rajiv Nagar, P.O- Ashiana Nagar, District- Patna.
4. Ghulam Rabbani, Son of Late Sheikh Mahbob Alam, Resident of Rajendra Nagar, P.S.- Kadam Kuan, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, New Secretariat, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Bihar, Patna.
3. The Patna Municipal Commissioner, Maurya Lok Complex, P.S.- Kotwali, District- Patna.
4. The Finance and Accounts Controller (earlier Chief Accounts Officer), Patna Municipal Corporation, Maurya Lok Complex, P.S.- Kotwali, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Naresh Malhotra, Sr. Adv. with
Mr. Binod Kumar Sinha, Adv.

For the Respondent-PMC : Mr. Sanjay Prakash Verma, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 13-12-2017

Heard Mr. Naresh Malhotra, learned senior counsel appearing for the petitioners along with Mr. Binod Kumar Sinha, the Advocate on record and Mr. Sanjay Prakash Verma, learned counsel appearing for the Patna Municipal Corporation.

The petitioners have questioned the order bearing Memo No.5032 dated 29.4.2016 of the Commissioner, Patna Municipal Corporation, whereby he has allowed payment of 75% of the salary admissible to the petitioners in view of an audit objection bearing Memo No.37 dated 16.3.2016 and Memo No.39 dated 19.3.2016 which interim direction was operative for a period of 15 days within which the Establishment Section of the Corporation was required to dispose of the objection raised by the audit. A copy of the order is impugned at Annexure 6. The petitioners alongside has also pray for issuance of a writ in the nature of mandamus commanding the respondents to consider the payment of grade pay of Rs.5400/- as revised under the 6th Pay Revision Commission as raised in their representation at Annexure 7 to the writ petition.

It is not in dispute that neither the petitioners have been put on notice on the audit objection nor the Municipal Commissioner has given opportunity of hearing to the petitioners before passing the order dated 29.4.2016 in so far as it restricts the pay and allowances of the petitioner to 75%.

In the circumstances, the order bearing Memo No.5032 dated 29.4.2016 in so far as it concerns the petitioners cannot be upheld and is accordingly quashed and set aside. The matter is remitted to the Municipal Commissioner, Patna Municipal Corporation, if so advised, to proceed afresh in accordance with law with opportunity of hearing to the petitioners on the audit objection as well as on the representation present at Annexure 7. The salary of the petitioner stands restored. However, payment of the arrears shall abide by the final outcome of the proceedings which should be done within a period of three months from the date of receipt/production of a copy of this judgment.

The writ petition is allowed with the direction aforementioned.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03-01-2018
Transmission Date	NA