

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4647 of 2019

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Lalan Singh, S/o Late Shiv Narayan Singh @ Shree Narayan Singh, Resident
of Mohallah-Mahalaxmi Nagar, Ward No.12/8, Sasaram (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna
2. The Municipal Council, Sasaram, Rohtas, through the Municipal Executive Officer, Municipal Council, Sasaram
3. Municipal Executive Officer, Municipal Council, Sasaram
4. The Junior Engineer, Municipal Council, Sasaram, Rohtas
5. Devanand Singh, S/o Anil Singh, Resident of Village- and P.O. -Nahuna, Sasaram, Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhishek, Advocate.
For the Nagar Parishad	:	Mr. Vijay Shankar Upadhyay, Advocate
For the Respondent/s	:	Mr.Rajiv Roy 1 (Gp1)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 10-12-2019

Heard learned counsel for the parties.

2. The petitioner has filed the present writ application seeking quashing of the letter dated 13.02.2019 issued by the Municipal Executive Officer, *Nagar Parishad*, Sasaram, whereby the petitioner has been directed to correct/remove the construction made of his house, which is at variance with the sanctioned map. It appears from the petitioner's own pleadings that a map was sanctioned by the *Nagar Parishad* for construction of house over the land in question on 15.03.2017. It transpires that when he started construction, on an information received from a private



person, the *Parishad* noticed that the petitioner was making construction, deviating from the sanctioned map. This led to passing of an order dated 23.08.2018 by the Executive Officer, *Nagar Parishad*, Sasaram, imposing a penalty of Rs.58,085/- for making illegal construction over the land in question, in violation of the sanctioned map. From the communication dated 24.08.2018, it appears that whereas the dimension of the sanctioned building plan was 25'x57', the petitioner was found making construction over an area measuring 55'x69.6'. The *Parishad* noticed that the petitioner was thus making construction over an area of 29.04 Square meter, more than what was sanctioned and, accordingly, the Executive Officer, imposed a penalty of Rs.58,085/-. The petitioner did not question the said decision of the *Nagar Parishad* and deposited the penalty amount of Rs.58,085/-. It appears that after having deposited the said amount of penalty, the petitioner has presumed that the Council has condoned the deviation of 29.05 square meter after imposing a penalty. Such presumption, in my view, is totally misplaced. It is the petitioner's case in the writ application that though he has applied for sanction of revised map after payment of penalty, the *Nagar Parishad* has not passed any order and has come out a notice dated 13.02.2019 asking him to remove the structure over and above what was sanctioned.



3. Learned counsel appearing on behalf of the petitioner has submitted that once the petitioner deposited the penalty amount for making construction over and above, the sanctioned map, it was obligatory for the *Parishad* to have sanctioned revised map, taking into account the penalty already paid by him and the *Nagar Parishad* ought not to have issued the said notice.

4. The petitioner's case is completely misconceived. No construction can be made beyond the sanctioned plan unless duly authorized and permitted by the local body. The deviation can be allowed only within permissible limits.

5. A decision in this respect can be taken by the *Parishad*, in accordance with the procedure prescribed under the statutory provisions. The payment of amount of penalty by the petitioner cannot be treated to be in lieu of illegal construction done by him in the matter of construction of the house in question.

6. This writ application has no merit, and is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

S.Ali/-

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	12/12/2019
Transmission Date	N.A.

