

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11303 of 2015

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1. Kishori Prasad son of Late Gaya Sao, resident of Mohalla- Ramdhanpur, Narhat Kothi, Pollice Station- Kotwali, District- Gaya.
 2. Nirmal Prasad @ Nirmal Kumar son of Late Mahadeo Sao, resident of Mohalla- Shivnagar Colony Chhotki Delha, Police Station- Delha, District- Gaya.
 3. Deepak Kumar son of Late Kailash Sah, resident of Mohalla- Rajendra Path, Telbigha, Police Station-Kotwali, District- Gaya.
 4. Hari Nandan Prasad son of Late Ganesh Mahto, resident of Mohalla- Dighi Talav Ganesh Krishi Kendra, Opp. Kushwaha Thakurwari, P.S.- Civil Lines, District- Gaya.
 5. Anand Mohan Prakash son of Late Maheshwari Singh, resident of Mohalla- Amwa, Police Station- Bodh Gaya, District- Gaya.

... .. Petitioners

Versus

1. The State of Bihar through the Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Divisional Commissioner, Magadh Division, Gaya.
3. The Gaya Municipal Corporation through its Commissioner.
4. That City Commissioner, Gaya Municipal Corporation Gaya.
5. The District Magistrate, Gaya.
6. The Sub Divisional Officer, Gaya Sadar, Gaya.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Sr. Advocate Mr.Sanjay Kr. Sinha, Advocate
For the Gaua M.C.	:	Mr. Rabindra Kr. Priyadarshi, Advocate
For the State	:	Mr. Kinkar Kumar, S.C.9 Mr. Sushant Praveen, A.C. to S.C.9

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 16-04-2019 Heard learned senior counsel for the petitioner and

learned counsel representing the Gaya Municipal Corporation,

Gaya.

Petitioner in the present case is seeking quashing of

letter vide Memo No. 1792 dated 04.12.2014 passed by the



respondent no. 3 by which the respondent no. 3 has enhanced the rent of shops of the petitioners allotted to them with effect from 01.12.2014.

Learned senior counsel for the petitioners submits that in terms of Annexure '1' to the writ application, which is a copy of the agreement, the rent of the shops is to be enhanced at every five years. It is submitted that though the agreement does not provide the rate by which the enhancement will take place but the Municipal Corporation being a constitutional authority has to act in accordance with the principles of fair play in action as well as reasonableness. The submission is that the Municipal Corporation has enhanced the rent from rupees 5 per square feet to rupees 11 per square feet.

It is submitted that on perusal of a recent decision of the Municipal Commissioner, as contained in Annexure '11' series to the supplementary affidavit, it would appear that in case M/s Magadh Tube Well Engineering Works, Kujapi, P.S. - Chandauti, District – Gaya, the rent has been fixed at the rate of Rupees 5 square feet only. Learned senior counsel therefore submits that there is no reason as to why the petitioners would be discriminated even though they are the small shopkeepers.

Learned counsel for the Gaya Municipal Corporation



submits that the petitioners seem to have represented before the Municipal Commissioner, Gaya vide Annexure '12' to the writ application which has still not been disposed of, therefore, this court may issue appropriate direction to the Municipal Commissioner, Gaya to look into the grievance of the petitioners, if any, and take a decision thereon.

In the given facts and circumstances of the case, this writ application stands disposed of with a direction to the Municipal Commissioner, Gaya to look into the grievance of the petitioner and consider the same keeping in mind the terms and conditions of the agreement as also a recent decision of the Corporation in the case of M/s Magadh Tube Well Engineering Works, Kujapi, P.S. - Chandauti, District – Gaya as contained in Annexure '11' series of the writ application. This court has not expressed any opinion on the merit of the contentions, therefore the Municipal Commissioner shall take an independent decision in accordance with law.

This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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