

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18690 of 2019

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M/s Hotel Mangal Shree Situated at Ward No.33, Kaviwar Nepali Path, Bettiah, West Champaran, through its Manager Shri Gajendra Prasad Aged about 47 Years, Male, S/o Late Mangal Mahto, R/o Lal Bajar, Noniya Toli, Ward No.33, P.S.-Bettiah, Bettiah, West Champaran.

... .. Petitioner

Versus

1. The State of Bihar through the District Magistrate, Bettiah, West Champaran.
2. The District Magistrate, Bettiah, West Champaran.
3. The Bettiah Nagar Parishad through its Executive Officer, Bettiah.
4. The Executive Officer, Nagar Parishad, Bettiah.
5. The Circle Officer, Bettiah West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Vagisha Pragya Vacaknavi, Advocate
For the Respondent/s	:	Mr.Kinkar Kumar (SC9)
For Nagar Parishad	:	Mr. Naresh Dikshit, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 30-09-2019 Heard learned counsel for the petitioner and learned counsel representing Nagar Parishad, Bettiah.

Learned counsel for the petitioner submits that pursuant to a sanction map in terms of its approval, Annexure 'P/3' on Plot No. 6075 and 6076 in Ward No. 33 Thana No. 128, the petitioner has raised a construction. Learned counsel submits that by an ex-parte order bearing No. 1048 dated 20.08.2019 as contained in Annexure 'P/1' the Nagar Parishad, Bettiah has decided to cancel the sanction granted to the petitioner by virtue of which he had constructed a stair over the open Nala in order to access his main structure.



Learned counsel submits that the Nala in question is open from all sides and the main construction of the petitioner lies after the said Nala, because the Nala was open and the Nagar Parishad was not covering the same, in order to have an access to the main structure, the petitioner had to construct a stair which is also open and it was done with the permission of the Nagar Parishad as is evident from their own statement made in Annexure 'P/1'.

It is further submitted that if for any reason the Nagar Parishad, Bettiah wanted to cancel that sanction, it was incumbent upon them to give an opportunity of hearing to the petitioner.

At this stage, Mr. Dikshit, learned counsel representing Nagar Parishad, Bettiah submits that *prima-facie* it appears from Annexure 'P/1' that prior to passing of that order no opportunity of hearing has been given to the petitioner and therefore, the writ application may be disposed of with a direction to the Nagar Parishad, Bettiah to hear the petitioner and then pass a fresh order in accordance with law. Learned counsel further submits that the stair has been constructed over open Nala and therefore, the Nagar Parishad has not committed any wrong in cancelling the permission.



Having heard learned counsel for the parties and on perusal of the records which includes the photographs etc, this Court finds that at this stage the fact that the staires were constructed to approach the main construction over the open Nala with permission of the Bettiah Nagar Parishad is not in dispute. Annexure 'P/1' itself states that the permission granted by the Board earlier is being cancelled. Thus, the permission was granted earlier is an admitted fact. If it is so, then prior to passing the order as contained in Annexure 'P/1', Bettiah Nagar Parishad was obliged to comply with the principles of natural justice which is like brooding omnipresence which prevails everywhere.

Thus, Anneuxre 'P/1' is set-aside, Bettiah Nagar Parishad will have liberty to proceed afresh, if so advised, by issuing a show cause notice to the petitioner giving an appropriate opportunity to be heard and then the Nagar Parishad will pass an appropriate order in accordance with law.

The writ application stands disposed of.

(Rajeev Ranjan Prasad, J)

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