

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24308 of 2019

=====

Aashray Abhiyan through its Secretary Dorothy Fernandes, Female, age-67 years D/o Gabriel Fernandes, 3rd Floor, Above PNB ATM, Opposite B.N. College Hostel, Ashok Rajpath,

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Main Secretariat, Patna-800001
2. Urban Development and Housing Department through its Principal Secretary, Government of Bihar, Vikas Bhawan, Bailey Road, Patna-800001
3. The Department of Social Welfare, through its Principal Secretary, Government of Bihar,.
4. Bihar State Housing Board through its Chairman, Vikas Bhawan, Bailey Road, Patna-800001
5. The Patna Municipal Corporation, through its Commissioner, Maurya Lok Complex, Near Kotwali Thana, New Dak Bunglow Road, Patna-800001
6. Divisional Commissioner, Patna.
7. The Police Commissioner, Patna, Bihar.
8. The District Magistrate, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Akash Keshav, Adv. Mr. Deepak Kumar Singh, Adv. Mr. Shashwat, Adv.
For the Respondent/s	:	Mr.Yogendra Pd. Sinha, AAG-7 Mr. Rakesh Ambastha, AC to AAG-7
For the P.M.C.	:	Mr. Prasoon Sinha, Adv.
For the BSHB	:	Mr. Pawan Kumar, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and

HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

3 19-12-2019 Heard Mr. Akash Keshav, learned counsel for the

petitioner, Mr. Yogendra Pd. Sinha, learned AAG-7, Mr. Prasoon

Sinha, learned counsel for the Patna Municipal Corporation and

Mr. Pawan Kumar, learned counsel for the Bihar State Housing



Board.

The present Writ Application has been filed by way of Public Interest Litigation for a direction to the respondent authorities not to disturb/ remove 226 families, at present, inhabitants of the Shahggaddi Maszid Area (Behind Haz Bhawan), Ward No.9 and to rehabilitate them under the Bihar State Slum Policy, 2011 and Affordable Housing and Slum Rehabilitation Housing Policy, 2017 within a time frame and till then status quo be maintained. The reliefs prayed for as stipulated in paragraph No.1 of the writ application reads as :-

“1. That the present writ petition is being filed for most humbly seeking and praying for the following reliefs to:

A. Issue a writ in the nature of mandamus directing the respondents that during the pendency of this writ petition demolition/displacement (if there is any) of a single hut/family or of 226 households/families from ward no.9, Shahggaddi Slum (Behind Haz Bhawan) Harding Road, Patna may kindly be directed to remain stayed till providing alternative arrangement of their rehabilitation and provide security against any further eviction/demolition as per the Bihar State Slum Policy, 2011 and Affordable Housing and Slum Rehabilitation Housing Policy, 2017 (Revised) till the pendency of the



petition.

B. Issue a writ in the nature of mandamus directing the Respondent No.1 & 2 to place a status report of steps taken towards the provision of in-situ rehabilitation after exploring all options for in-situ up-gradation before relocation for the residents of ward no.9 Shahgaddi Malin Basti Slum (Behind Haz Bhawan) Harding Road, Patna as per the in term of Bihar State Slum Policy, 2011 and Affordable Housing and Slum Rehabilitation Housing Policy, 2017 (Revised).

C. Issue a writ in the nature of mandamus directing the Respondents to place before this Hon'ble Court a proper slum rehabilitation plan before demolishing/disturbing/relocating the notified slum by ensuring it should be close to the existing location, so as to create minimum disruption in livelihood activities, all relocation will be carried out in consultation with affected slum dwellers and after taking cognizance of the distance to workplace and other livelihood opportunities.

D. Issue a writ in the nature of mandamus directing the Respondent No.2, i.e. Urban Development and Housing Department, Patna to place a status report of steps taken towards the provision of providing affordable housing to the eligible households based on the survey conducted by Respondent No.5 i.e. Municipal Corporation of Patna of the residents at



ward no.9, Shahgaddi Malin Basti Slum (Behind Haz Bhawan) Harding Road, Patna and rehabilitate them accordingly in term of Bihar State Slum Policy, 2011 and Affordable Housing and Slum Rehabilitation Housing Policy, 2017 (Revised).

E. Issue a writ in the nature of mandamus directing the Respondents to ensure provision of transit accommodation before any demolition/disturbance/re-location, if there is any, of the dwelling units at ward no.9, Shahgaddi Malin Basti Slum (Behind Haz Bhawan) Harding Road, Patna in terms of the provisions of Affordable Housing and Slum Rehabilitation Housing Policy, 2017 (Revised). And to provide immediate relief to the residents in terms of before any physical eviction carried out and ensure to provide the inhabitants food packets, potable water, temporary toilets, power supply, education, livelihood, primary health centres, proper health checkup facilities including ante-natal care to pregnant women, post-natal care to lactating mothers, immunization, Anganwadi centre to provide nutrition and other services as per the ICDS scheme etc.;

F. Issue a writ in the nature of mandamus directing the Respondents to appoint a Nodal Officer as per Affordable Housing and Slum Rehabilitation Housing Policy, 2017 (Revise) the from Urban Local Bodies and District Administration to coordinate various measures to be taken as per provisions of these



guidelines.

G. Pass an order directing the respondents to initiate an enquiry and take appropriate action against the official who were responsible for demolishing the dwelling units in the said Shahgaddi Malin Basti Slum without making any provision or arrangements for rehabilitation.

AND/OR

H. Pass such other order or orders which may deem fit and proper in the facts and circumstances of this case.”

It is submitted by learned counsel for the petitioner that though the petitioner has submitted several representations for redressal of his grievance before the concerned authority, however, one of such representation, dated 13.10.2014, submitted before Respondent No.2, the Principal Secretary, Urban Development and Housing Department, Government of Bihar, has been brought on record, as contained in Annexure-8 but the homeless slum dwellers have not been rehabilitated while all such families are being sought to be removed from the place in question without initiating any proceeding under the Bihar Public Land Encroachment Act, 1956, hence the present writ application.

It is submitted by learned counsel for the Patna Municipal Corporation that for welfare of such people certain



positive steps have been taken by the Patna Municipal Corporation. However, if the petitioner submits a fresh representation, the same will be taken into consideration and will be disposed of positively within a reasonable time frame.

In the circumstances, in the interest of justice, we give liberty to the petitioner to submit a detailed representation before Respondent No.2, the Principal Secretary, Urban Development and Housing Department, Government of Bihar within a period of one week from the date of receipt/production of a copy of this order. On filing of such representation, it is expected from the authority concerned to consider the representation of the petitioner and positively dispose of the same within a period of four weeks of its submission, in accordance with law.

It is made clear that till the disposal of the representation of the petitioner by respondent No.2, if so submitted, the status quo, as is existing today with regard to residential area of such persons represented by the petitioner, shall be maintained.

However, we make it clear that we have not expressed any opinion with regard to the right of such persons to reside on the land in question.



With the above observation, the Writ Application
stands disposed of.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

Ashwini/-

U			
---	--	--	--

