

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1682 of 2020

Col (Retd.) Niraj Nayan Bajpayee, aged about 55 years (Male) Son of Late Navin Chandra Bajpayee, Resident of 7, Awasthi Bhawan, P.O. and P.S.- Banda, District- Banda, Uttar Pradesh 210001.

... .. Petitioner/s

Versus

1. Nagar Panchayat Tekari, District Gaya, Bihar.
2. The District Magistrate, Gaya, Bihar 823001.
3. The Sub Divisional Officer, Tekari, District Gaya, Bihar.
4. The Circle Officer, Tekari, District Gaya, Bihar.
5. The Officer Incharge, Police Station Tekari, Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shailendra Kumar Singh and Mr. Praveen Prabhakar, Advocates
For the State	:	Mr. Yogendra Prasad Sinha, AAG 7 Mr. Shankar Kumar, AC to AAG 7

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 05-02-2020

Heard learned counsel for the petitioner and learned AC
to AAG 7 for the State.

2. The petitioner has moved the Court for the following
reliefs:

“(a) To issue appropriate writ directing the respondents and prohibiting them, not to interfere in the construction of the building of the petitioner, on his land bearing plot number 2650 & 2651 (old), new plot No. 26, 28K and 29, khata number.70 (old), 164 (New) at Mohalla. Rikabganj, Bahelia Bigha, Tekari under ward number 7 of the Nagar Panchayat Tekari, Gaya.

(b) To issue appropriate writ directing the respondent No. 1, to sanction the residential



map for construction of house on the aforesaid plot, submitted on 04/07/2019, by the petitioner and allowed the petitioner to construct his building on the said plot.

(c) To grant any other relief or reliefs for which the petitioner may be found entitled to.”

3. Though, learned counsel for the petitioner has submitted on merits but from the admitted facts which have been pleaded in the writ petition itself, the Court is not persuaded to interfere in the matter.

4. Admittedly, the petitioner had already started construction of the house on 24.05.2019 without even submitting the building plan to the Nagar Panchayat, Tekari, which was totally illegal. Thus, the subsequent submitting of the plan on 28.05.2019, which incidentally was also rejected on 08.06.2019, did not entitle the petitioner to start working on the construction from where he had left. Thus, on 24.05.2019 and till 28.05.2019, the construction made being totally illegal, the same cannot be allowed to remain and was required to be totally demolished, and then only it would lie in the mouth of the petitioner to take a stand that without prior approval construction could have begun when he himself has admittedly filed the plan for approval only on 28.05.2019. The subsequent re-filing of the map on 04.07.2019 would, in the considered opinion of the Court, entitle the



petitioner to make construction in terms of the approved plan only after the initial illegally constructed area is totally demolished.

5. When the petitioner himself has not come to the Court with clean hands as he had started the construction much prior to him even submitting the plan for approval, the Court, in its extraordinary, prerogative writ jurisdiction under Article 226 of the Constitution of India would not come to the aid of such litigant who has started his endeavour on a totally illegal base.

6. In view thereof, the writ petition stands dismissed.

7. Learned counsel for the State is directed to communicate the order to the District authorities as well as the Nagar Panchayat, Tekari, to ensure that the illegal construction of the petitioner is dealt with, in accordance with law and also that no further construction is permitted *de-hors* the petitioner fully complying with the relevant rules/regulations/byelaws.

(Ahsanuddin Amanullah, J.)

P. Kumar

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