

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5293 of 2020

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Santosh Kumar, Son of Late Vanshi Lal, Resident of 25, Kadam Kuan,
Daldali Road Patna, P.S.- Kadam Kuan, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Bihar, Patna.
2. The Union of India through its Secretary, Ministry of Environment, Forest and Climate Change Indira Paryavaran Bhavan, Jorbagh Road, New Delhi.
3. The Principal Secretary Urban Development Department, Govt. of Bihar, Patna.
4. The Principal Secretary Bihar State Pollution Control Board, Govt. of Bihar, Patna.
5. The Commissioner Patna Municipal Corporation, Patna.
6. The District Collector/ Magistrate Patna.
7. The Patna Smart City Limited Maurya Lok Patna Through its Chief Executive Officer- Cum- Additional Commissioner, Patna Municipal Corporation, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Baua Jha, Advocate Mr. Saket Gupta, Advocate
For the Respondent/s	:	Mr. Lalit Kishore, A.G. Mr. S. D. Sanjay, Sr. Advocate Mr. Prasoon Sinha, Advocate Mr. Parijat Saurav, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-12-2020

Petitioner has prayed for the following relief(s):

“(i) For issuing a writ of Mandamus or a writ in the nature of Mandamus or any other appropriate Writ. Order or direction and direct the respondent authorities for removal of the Municipal dumping yard situated at Bakri Bazar near Patna Railway Station New



Market Area as such the Bakri bazaar market had been identified under the Railway Station Area Redevelopment Project as part of the Smart City Mission and more than 1200 shops were demolish for the purposes of constructing the mall, hotels and shopping complexes under Patna Smart City Project but subsequently, the respondent authorities started throwing Municipal waste in a unscientific and unregulated manner at the ground of Bakri market as a result of which the local Shopkeepers of the New Market station area as well as the locals resident, passersby, customers are suffering and forced to inhale the contaminated air/ foul smell emitted from the open municipal dumping yard.

(ii) For further direction to the respondent authorities to immediate stoppage of throwing of Municipal waste at the Bakri Bazar Ground which is near to the New Market station Area and to shift the open dumping yard to an authorized and approved place in accordance with the provision of the Municipal Solid Waste Management Rules, 2016 Or out of the city for the interest of General Public. the Bakri Bazar and New Market are situated near Patna junction and one of the busiest commercial area located in the heart of the city and the Municipal Corporation stated throwing Municipal Solid Waste in a open dumping yard and due to which the locals, Passerby shopkeeper of the Market Area are facing great inconvenience and forced to inhale the foul smell/ contaminated air emanating from the Open dumping yard continuously since last few months.

(iii) For further kind indulgence of this Hon' Court to look into the matter urgently as the matter is a great public concern and due to negligence of the respondent authorities, the common citizen of new market area as well as the whole shopkeepers community of the new market are suffering and forced to live in an unhygienic and contaminated air since last few months which may lead to a serious health effect upon common public living near the new market station area.



(iv) For any other direction, which your Lordships may deem fit and proper in the facts and Circumstances of the case.”

After the matter was heard for some time, learned counsel for the petitioner submits that petitioner shall be content if a direction is issued to Respondent Nos. 3, 4 and 5, namely, Principal Secretary, Urban Development Department, Government of Bihar, Patna; the Principal Secretary, Bihar State Pollution Control Board, Government of Bihar, Patna and the Commissioner, Patna Municipal Corporation, Patna, respectively, to consider and decide the representation which the petitioner shall be filing for redressal of the grievance(s).

Learned counsel for the respondents states that if such a representation is filed by the petitioner, the authority concerned shall consider and dispose it of expeditiously and preferably within a period of eight weeks from the date of its filing along with a copy of this order.

Ordered accordingly.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in



accordance with law and with reasonable dispatch.

Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

Liberty reserved to the petitioner to approach the Court, if the need so rises subsequently on the same and subsequent cause of action.

We have not expressed any opinion on merits. All issues are left open.

The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode.

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.12.2020
Transmission Date	

