

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5683 of 2020

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Aashray Abhiyan through its Secretary Dorothy Fernandes, Female, Aged about 68, D/o Gabriel Fernandes giving Registered Office at 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. Building Construction Department, Vishvaisherya Bhavan, Bailey Road.
3. Urban Development and Housing Department through its Principal Secretary, Government of Bihar, Vikas Bhawan, Bailey Road, Patna-800001.
4. The Department of Social Welfare, through its Principal Secretary, Government of Bihar.
5. Bihar State Housing Board through its Chairman, Vikas Bhawan, Bailey Road, Patna- 800001.
6. The Patna Municipal Corporation, through its Commissioner, Maurya Lok Complex, Near Kotwali Thana, New Dal Bunglow Road, Patna- 800001.
7. Divisional Commissioner, Patna.
8. The Police Commissioner, Patna, Bihar.
9. The District Magistrate, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Akash Keshav
		Mr. Deepak Kumar Singh, Advocates
For the Respondent/s	:	Mr. Sarvesh Kumar Singh, AAG 13

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and
HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

2 21-05-2020 This matter has been taken up through virtual Court proceeding.

Heard Mr. Deepak Kumar Singh, learned counsel for
the petitioner and Mr. Sarvesh Kumar Singh, learned AAG -13



for the respondents.

The petitioner, being a registered organization, has preferred this *pro bono* petition for the reliefs as stipulated in paragraph 1 of the writ application, which reads as follows:

“A. Directing the Respondent not to demolish or unsettle the residents of the slum situated at Road No. 11 and 28, Gardanibagh, Patna, comprising approximately 100 families, during the pandemic situation due to COVID19.

B. Directing the Respondent not to demolish the slum situated at Road No. 11 and 28, Gardanibagh, Patna before a survey and decision on in situ development or alternative arrangement of its rehabilitation as per the Bihar State Slum Policy, 2011 and Affordable Housing and Slum Rehabilitation Housing Policy, 2017 (Revised).

C. Directing the Respondent No. 1 & 2 to place a status report of steps taken towards the provision of alternative arrangement of providing affordable housing under Pradhan Mantri Awas Yojana (PMAY)- Housing for All or in-situ rehabilitation after exploring all options for in-situ upgradation before relocation of the residents of slum situated at Road No. 11 and Road No. 28, Gardanibagh, Patna in terms of Bihar State Slum Policy, 2011 and Affordable Housing and Slum Rehabilitation Housing Policy, 2017 (Revised).

D. 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.

E. Directing the Respondents to ensure provision of transit accommodation before any demolition/disturbance/ re-location, if there is any, to the residents of the slum situated at Road No 11 and 28, Gardanibagh Patna in consonance with the provisions of Affordable Housing and Slum Rehabilitation Housing Policy, 2017 (Revised)

F. Directing the Respondents to provide immediate relief to the residents of the said area 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, postnatal care to lactating mothers, immunization, Anganwadi centre to provide nutrition and other services as per the ICDS scheme etc. before any physical eviction carried out which utmost urgent in the desperate situation of pandemic situation due to COVID19 and prevailing lockdown;

G. Directing the Respondents to appoint



a Nodal Officer as per Affordable Housing and Slum Rehabilitation Housing Policy, 2017 (Revised) from Urban Local Bodies and District Administration to coordinate various measures to be taken as per provisions of these guidelines.

AND/OR

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

Learned counsel for the petitioner submits that one hundred families residing, since last twenty years, in Road Nos. 11 and 28, Gardanibagh, Patna, are apprehending threat of dispossession without the government having any rehabilitation scheme under Bihar State Slum Policy, 2011 and Affordable Housing and Slum Rehabilitation and Redevelopment Housing Policy, 2017. On 13.5.2020, the officers of the Building Construction Department and other officials visited Road Nos. 11 and 28 of Gardanibagh and asked the slum dwellers to vacate the area, otherwise it will be demolished. It is further submitted that since the slum dwellers will have to face insurmountable difficulty due to extraordinary situation created by the present pandemic Covid-19, hence, the present writ application.

Mr. Sarvesh Kumar Singh, learned AAG -13, however, submits that the entire area of Gardanibagh, Patna is



under development, the old government buildings have been demolished and after demolition, certain people have occupied part of the area recently. However, he has received instructions from the Building Construction Department that the department has no plan to displace any body for the present during present pandemic. Moreover, no official of the department has contacted anyone on 13.5.2020 or given any threat of demolition as stipulated in paragraph 4 of the writ application.

Having heard learned counsels for the parties, the present writ application has been preferred *pro bono* by a registered organization without naming the persons who are having apprehension of ejection or naming the officials of Building Construction Department who have contacted the slum dwellers. In our opinion, the present writ application has been preferred on mere apprehension. In the writ application, though order dated 13.9.2017 passed in CWJC No. 4212 of 2015 and order dated 30.4.2020 passed in CWJC No. 5633 of 2020 by different benches of this Court are annexed but both the orders have not actually been annexed therewith. The pleadings in the writ petition further suggest that neither the affected persons nor the registered organization-petitioner made any representation before the concerned authorities ventilating their



grievances. Moreover, there is factual dispute with regard to the period since which the claimants are residing in the area in question.

Considering the rival submissions of the parties, particularly, the stand of learned AAG 13 that the Building Construction Department has no plan to displace any person during the present pandemic COVID-19, we are not inclined to interfere in the matter.

Accordingly, the writ application is disposed of with a liberty to the petitioner or the actual affected persons, if so advised, to represent before the concerned authorities for redressal of their grievance, if any.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

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