

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 7133 of 2020

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Sanjay Kumar Singh convener Kisan Bhawan son of
Late Ramjee Singh resident of Kisan Bhawan New
Bye pass Road Shivajee Nagar, P.S.-Kankarbagh,
District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary
Urban Development Department, Old Secretariat,
Bihar, Patna.
2. The Patna Municipal Corporation through its
Municipal Commissioner, Budh Marg, Patna
3. The Deputy Collector Land Reforms, Patna.
4. The Executive Officer, Patna Municipal Corporation
Kankarbagh Circle, New Kankarbagh Tempo
Stand, Kankarbagh, Patna.
5. The Regional Sanitary Inspector Ward No. 33,
Patna Municipal Corporation, Patna.

... .. Respondent/s

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Appearance :



For the Petitioner : Mr. Sanjay Kumar Ojha, Adv.

For the PMC : Mr. Prasoon Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 14-07-2021

Heard the learned counsel for the petitioner, Sri Sanjay Kumar Ojha and the learned counsel appearing for the Respondent, Patna Municipal Corporation, Sri Prasoon Sinha.

2. The present writ petition has been filed to direct the respondent authorities to reconstruct the culvert (Pulia), which was constructed earlier, in the compliance of the order passed by this Hon'ble Court, but has now again been demolished by the respondent authorities.

3. The learned counsel for the petitioner has submitted that the petitioner had earlier filed a writ petition bearing CWJC No. 12280 of 2014, being aggrieved by a notice dated 10.07.2014, issued by the Executive Officer, Kankarbagh Circle,



Patna Municipal Corporation, Patna whereby and whereunder he, being the convenor of the Kishan Bhawan situated at new Bypass Road, Shivaji Nagar, Kankarbagh, District-Patna, had been directed to remove the construction made over the drain terming it to be an illegal construction. It is submitted that a coordinate Bench of this Court, by an order dated 08.08.2014, had stayed the operation of the aforesaid notice dated 10.07.2014 and had directed that no action shall be taken by the Corporation for removal of the construction in question till further orders of the Court.

4. The learned counsel for the petitioner has further submitted that unfortunately, the Respondent-Patna Municipal Corporation had demolished the old Pulia situated near the Kishan Bhawan, leading to the petitioner filing a contempt petition bearing MJC No. 3368 of 2014 in which a supplementary show cause reply was filed by the Executive Officer, Kankarbagh, Patna Municipal



Corporation and it was stated that new Hume pipes have been installed in place of the old Pulia situated near the Kishan Bhawan, which was removed in order to clear out the water logging, hence, the means of ingress and egress of the local residents of that area have been restored.

5. The learned counsel for the petitioner has submitted that again, in defiance of the aforesaid order dated 08.08.2014 passed in CWJC No. 12280 of 2014, the culvert (Pulia) near the Kishan Bhawan has been demolished.

6. The learned counsel for the Respondent-Patna Municipal Corporation, Sri Prasoon Sinha, has, at the outset, submitted that the aforesaid writ petition bearing CWJC No. 12280 of 2014 has already stood dismissed for want of prosecution by an order dated 01.10.2018, hence the aforesaid stay order dated 08.08.2014 has consequently stood vacated, thus, the submission made by the learned counsel for the petitioner is bereft of any



merit and fit to be rejected. It has also been submitted that the petitioner has suppressed the fact that the writ petition filed by him earlier i.e. CWJC No. 12280 of 2014 has been dismissed.

7. The learned counsel for the Respondent-Patna Municipal Corporation has referred to the counter affidavit filed in the present case and has submitted that in the year 2019, on account of heavy rains in the month of September, the Rajendgra Nagar and Kankarbagh area remained submerged in water for many days, inasmuch as the rain water could not flow out through the drains situated at north Bypass in Patna causing stagnation of water in the aforesaid areas. It also transpired that the level of the culverts constructed over the aforesaid Nala with the support of Hume pipes situated in the Bypass area was higher than the Rajendra Nagar and Kankarbagh areas as also the adjoining areas, hence, was obstructing the free flow of water



through the Hume pipes, thus a decision was taken by the higher officials of the Urban Development Department and the District Administration as also the Patna Municipal Corporation to remove all the culverts constructed over the said drain / Nala and deepen the Nala in order to lower the level so that more volume of water from the side of Kankarbagh and Rajendra Nagar area can flow easily through the said Nala. Thereafter, a drive was undertaken by the District Administration with the help of the Patna Municipal Corporation and the aforesaid drain / Nala situated at north Bypass road was cleared, all the culverts constructed with Hume pipes were removed, the drain was further deepened by digging the Nala by further 3 to 5 feet deep and the Nala was left open for easy flow of water. In fact, the Executive Officer, Kankarbagh Circle, had identified 23 places where obstruction in flow of water was detected either on account of dilapidated conditions or due to improper levelling of the culvert and thereafter,



approval was granted by the Patna Municipal Corporation to construct iron bridges at 20 places over the said Nala. Subsequently, 14 more places were identified for installation of the iron bridges. In anticipation of grant of sanction / approval for installation of the iron bridges over the aforesaid Nala, the work of installation of the iron bridges was started, however, the petitioner had obstructed and had not allowed the agencies to carry out the work inasmuch as he was insisting for installation of a much wider iron bridge, which was neither as per the model specification nor was technically safe, hence, the iron bridge could not be installed at the place in question i.e. near the Kishan Bhawan and the materials are still lying there.

8. The learned counsel for the Respondent-Patna Municipal Corporation has referred to paragraph no. 3 (viii) of the counter affidavit filed by the Patna Municipal Corporation in the present



case to show that the entire materials are lying in front of Kishan Bhawan for installation of the iron bridge near the Kishan Bhawan, however, the petitioner is not permitting construction of the same.

9. The learned counsel for the Respondent-Patna Municipal Corporation has also referred to paragraph no. 6 of the present writ petition and has submitted that the petitioner is the owner of the Kishan Bhawan Building as also is residing therein and iron bridge has already been installed over the Nala, which is situated just west to Kishan Bhawan, which is also being used by the petitioner for his ingress and egress as also the road situated therein is also being used by the residents of Shivaji Nagar.

10. I have heard the learned counsel for the parties and perused the materials on record from which it is apparent that the petitioner has suppressed the fact that his earlier writ petition, in



which a stay order dated 08.08.2014 was passed, has already stood dismissed by an order dated 01.10.2018 passed by a coordinate Bench of this Court, hence, on this ground alone, the present writ petition is fit to be dismissed. Nonetheless, considering the nature of prayer made by the petitioner in the present case, this Court has been persuaded to delve into the merits of the case and it has transpired that not only the Respondent-Patna Municipal Corporation has already installed an iron bridge over the Nala, which is situated just west to the Kishan Bhwan, but is also ready to construct / install one additional iron bridge over the Nala at the place, which is the subject matter of the present writ petition, but the petitioner is obstructing and creating nuisance, resulting in the Respondent-Patna Municipal Corporation being unable to install the same. This Court further finds that on account of severe natural calamity, in the form of water logging/flood like situation, which had engulfed the city of Patna, the Respondent-



Patna Municipal Corporation was compelled to take certain urgent measures and accordingly, the respondent- Patna Municipal Corporation had taken various steps, which have already been indicated in the preceding paragraph hereinabove, including demolition of the culvert / Pulia in question, nonetheless, iron bridges were installed on the Nala / drain at the new Bypass Road in the city of Patna at various places including one near the Kishan Bhawan and the Respondent-Patna Municipal Corporation had also intended to construct / install one iron bridge at the place, which is the subject matter of the present writ petition, however, the petitioner has been creating obstruction and nuisance.

11. Having regard to the facts and circumstances of the case, this Court finds no illegality in the steps taken by the Respondent-Patna Municipal Corporation whereas on the contrary, it is apparent that the petitioner has not only set up a



frivolous case by suppressing material facts, but has also engaged in lawlessness, thus this Court does not find any merit in the present writ petition, hence the same stands dismissed.

12. It is needless to state that in case, the petitioner, in any manner, either obstructs or impedes the activities of the Respondent authorities in carrying out their official work, the Respondent authorities shall be free to take appropriate action against the petitioner in accordance with law.

(Mohit Kumar Shah, J)

Ajay/-

AFR	AFR
CAV DATE	NA
Uploading Date	27.07.2021
Transmission Date	NA

