

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7257 of 2020

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Zila Parishad Awantit Dukandar Sangh @ Zila Parishadiya Awantit Dukandar Sangh, Mahua through its President Nagendra Prasad Chaurasiya, (M) aged about 49 years son of Shaukhi Bhagat, resident of Patepur Road, Mahua Singh Rae, P.O. and P.S.- Mahua, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate District- Vaishali.
3. Zila Parishad, Vaishali through its Deputy Development Commissioner Cum Chief Executive Officer.
4. Deputy Development Commissioner Cum Chief Executive Officer Zila Parishad, Vaishali.
5. District Engineer, Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Brisketu Sharan Pandey, Advocate
For the State	:	Mr. Mritunjay Yadav, APP

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 24-06-2021 The matter has been heard via video
conferencing.

2. It appears that vide order dated 31.08.2020, notice was issued to the *Zila Parishad*, Vaishali and it has validly been served but no one appears on behalf of the *Zila Parishad*, Vaishali.

3. Learned counsel appearing on behalf of the State, despite indulgence, has not been able to file counter affidavit.



4. Learned counsel appearing on behalf of the petitioner would submits that enhancement of rent without following the necessary procedure is illegal and arbitrary. While referring I.A. No. 1 of 2021, Mr. Pandey submits that Additional Chief Executive Officer, Zila Parishad, Vaishali has no authority to take a decision with regard to enhancement of rent. He submits that such decision is violative of principles of nature justice and fair play particularly when the issue of fair rent is pending before the S.D.O., Mahua.

5. In the circumstances, this Court deems it fit and proper to direct the Sub-Divisional Officer, Mahua to appropriately decide the issue of enhancement of rent after hearing the parties and until final decision, the realization of enhanced rent shall be kept in abeyance. It goes without saying that the Sub-Divisional Officer while discharging his responsibility shall not be influenced by any observation or direction issued by any authority including the Principal Secretary, *Panchayati Raj*, in view



of law laid down by the Apex Court in the Purtabpore Company Limited versus Cane Commissioner of Bihar & Ors reported in AIR 1970 SC 1896. Necessary decision after opportunity of hearing to the petitioner shall be taken by the respondent/Sub-Divisional Officer within a period of three months from the date of receipt/production of a copy of this order.

6. It is made clear that the Sub-Divisional Officer, Mahua can not defy the direction of this Court on the ground that he is not party in the present proceeding.

7. With the aforesaid observation/direction, the writ petition stands disposed off.

(Anil Kumar Upadhyay, J)

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