

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13253 of 2021

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Ravindra Kumar Singh son of Mahavir Prashad Singh resident of at E- 701, Mahajan Shree CGHS Ltd. Plot No. 13, Dwarka Dham Apartments, Dwarka Sector- 23, Bagdola, Raj Nagar- II, South West Delhi, at present resident of Village Rathaur Bhawan, Gangjala Chawk, P.S. Saharsa, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department, Government of Bihar, Patna.
2. The Chairman, Nagar Parishad, Saharsa.
3. The Deputy Chairman, Nagar Parishad, Saharsa.
4. The Executive Officer, Nagar Parishad, Saharsa.
5. The Junior Engineer, Nagar Parishad, Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ansul
For the Respondent/s	:	Mr.Abbas Haider (Sc6)
For Saharsa Nagar Parishad:		Mr. Abhay swhanker Singh

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 13-08-2021 Heard learned Counsel for the parties concerned.

The petitioner has challenged the order, dated 29.06.2021, passed in Vigilance Case No. 02 of 2021, by which the Executive Officer, Nagar Parishad, Saharsa, has directed for demolition of the Shopping Complex -cum- Mall, constructed over a piece of land ad-measuring 14 kathas, at Purab Bazaar, Saharsa, having Khata No. 202 (O), 460 (N) and Khesra No. 2068 (O), 750 (N).

Learned Counsel for the petitioner has submitted that the plan for construction of Shopping Complex -cum- Mall was approved by the competent authority and after construction of



basement, first floor and second floor, the petitioner leased out the said space to Vishal Mega Mart and the further construction was going on for other floors, including the finishing work of the Shopping Complex -cum- Mall. He next submits that pursuant to the notice, dated 16.01.2021, containing four allegation, including that the map of the Shopping Complex -cum- Mall did not contain the attestation of the structural engineer and architect and further that there was substantial deviation in the construction of the Shopping Complex -cum- Mall from the map, the petitioner submitted his reply (Annexure-3). Subsequently, the petitioner received a letter, under Memo No. 650, dated 19.03.2021 (Annexure-4), whereby he was informed that the reply to the show cause notice submitted by him was not satisfactory and accordingly he was directed to appear in the vigilance case on 23.03.2021 to place his defence. On 10.04.2021, re-measurement of the construction was done, but the copy of the measurement report has not been served upon the petitioner and subsequently on 29.06.2021, the Executive Officer, Nagar Parishad, Saharsa, passed the impugned order in Vigilance Case No. 02 of 2021, by which the concerned authority has directed for demolition of the entire Shopping Complex -cum- Mall of the petitioner and levied a



penalty of Rs. 10,00,000/-, for violating the provisions of the Bihar Municipal Act and Building Bye Laws, 2014.

Learned Counsel for the respondent-State as well as Saharsa Nagar Parishad submit that the petitioner has got alternative remedy of appeal against the impugned order before the Bihar Municipal Building Tribunal and the petitioner may be directed to file an appeal against the impugned order.

Upon query of the Court, learned Counsel for the State submits that the Bihar Municipal Building Tribunal has, now, been constituted and it has started functioning.

In view of the rival submissions and the fact that the petitioner has got alternative remedy before the Tribunal, this writ application is disposed of with a direction to the petitioner to prefer an appeal before the Tribunal within a period of six weeks from today.

It is made clear that till the aforesaid period of six weeks within which the petitioner may file an appeal before the Tribunal, the respondents are restrained from demolishing the Shopping Complex -cum- Mall of the petitioner and also not to take any coercive action for realization of penalty levied in Vigilance Case No. 02 of 2021.

With the aforesaid observation and direction, this writ



application is disposed of.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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