

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16884 of 2021

Pratigya through its Chairman namely Brij Nandan Pathak, aged about 45 years, male, son of Vidya Nandan Pathak, Resident of Laxman Sahay Lane, Gurudwara Road, P.S.-Kotwali Gaya, District-Gaya (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Govt. of Bihar, Patna.
3. The Gaya Municipal Corporation through its Municipal Commissioner, Gaya Municipal Corporation, Gaya.
4. The Municipal Commissioner, Gaya Municipal Corporation, Gaya.
5. The Sparro Softech Private Limited Gaya through its Project Manager, Address near Surendra Prasad Yadav College at A.P. Colony, Gaya, District-Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar, Advocate Ms. Ritika Rani, Advocate
For the Respondent/s	:	Mr. Yogendra Prasad Sinha, AAG-7 Mr. Rabindra Kumar Priyadarshi, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 01-10-2021

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

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(A) To hold and declare notification dated 15-04-2019 issued under the signature of Municipal Commissioner, Gaya Municipal Corporation, Gaya as contained in Annexure- 3 without gazette notification for implementation of solid Waste Management Rule, 2016 and adoption of the Model Bihar Municipal Solid Waste Management, Bye laws hereinafter referred Bye laws 2019 as contained in Annexure- 5 u/s 421 of the Bihar Municipal Act 2007 is void, ab-initio, arbitrary, mala fide and bad in law and in conflict of section 2(67), Section 2(84), Section 2(86), Section 2(111) section 4 read with section 419, Section 421, Section 422 and Section 428 of Bihar Municipal Act, 2007.

(B) To hold and declare without Gazette notification action taken pursuant to notification dated 15-04-2019 issued under the signature of Municipal Commissioner, Gaya Town Municipal Corporation, Gaya as contained in Annexure-4 and issuance of Memo No. 279 dated 14-01-2019 by Municipal Commissioner, Gaya Municipal Corporation, Gaya addressed to the Project Manager, Sparro Softech Private Limited, Gaya as contained in Annexure- 6 after amalgamation of Bye laws 2019 as contained in Annexure-5 in holding tax under section 341 of Act 2007 in fixing mandatory charge of Waste Management Fee from



building properties and user charges from retrospective effect for year are void, illegal and bad in law and contrary to the Section 421 of the Bihar Municipal Act, 2007.

(C) Also for quashing decision of empowered standing committee of the Gaya Municipal Corporation, Gaya dated 15-04-2019 with respect to approval of the user charge and penalty for New Solid Waste Management fee and holding tax monthly as contained in Annexure-4 with retrospective effect and consequential order vide Memo No. 79 dated 14-01-2021 as contained in Annexure-6.

(D) For declaring Bye-laws 2019 as contained in Annexure- 5 and consequential order issued on 14-01-2019 as contained in Annexure- 6 for collection of holding tax and user charge without gazette publication of Bye-laws 2019 for collection of holding tax and user charge is void, ab-initio, illegal and bad in law and in conflict of section 2(67), 2(68), 2(86) and 2(111), section 4 read with section 419, section 421, section 422, section 428 of Bihar Municipal Act, 2007.

(E) Also for declaring decision of the Standing Committee, Gaya Municipal Corporation dated 15-04-2020 being clause 2 of proceeding no. 1 as contained in Annexure- 4 and consequential

order vide Memo No. 79 dated 14-01-2021 as contained in Annexure- 6 is void, illegal and bad in law.

(F) Also for necessary relief/reliefs, order/orders, direction/directions for which the petitioner is entitled in the eye of law.



Shri Dinu Kumar, learned counsel for the petitioner states that the petitioner has already represented to the authorities vide communication dated 26th of January, 2021 (Annexure-7). He further states that the petitioner would again invite attention of the authorities of the alleged illegality in issuing the impugned notification dated 15th of April, 2019.

As such, the present petition stands disposed of in the following terms:-

(a) Petitioner shall approach the Respondent No. 2, namely the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna within a period of four weeks from today by filing a representation for redressal of the grievance(s);

(b) Respondent No. 2, namely Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna shall consider and dispose it of expeditiously by a reasoned and speaking order preferably within a period of four months from the date of its filing along with a copy of this order;

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



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

(e) 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;

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

(g) We have not expressed any opinion on merits. All issues are left open;

The petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

P.K.P./Amrendra

AFR/NAFR	
CAV DATE	
Uploading Date	05.10.2021
Transmission Date	

