

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20646 of 2018

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Shambhu Sharan Singh, S/o Late M.S. Singh, Resident of 9/5 Kasturba Path,
North S.K. Puri, Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Main Secretariat, Patna
2. The Chief Secretary, Government of Bihar, Main Secretariat, Patna.
3. The Principle Secretary, Department of Urban Development, Government of Bihar, Patna.
4. The Divisional Commissioner, Patna Division, Patna.
5. The District Magistrate, Patna.
6. The Municipal Commissioner, Patna Municipal Corporation, Mauryalok Complex, Patna.
7. The Union of India through the Ministry of Housing and Urban Affairs, Central Secretariat, Maulana Azad Road, New Delhi through its Secretary
8. The Smart City Mission, Under Ministry of Urban Affairs, Government of India through its Chief Executive Officer, New Delhi

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Shambhu Sharan Singh (In Person)
For the Respondent/s	:	Mr. Manish Dhari Singh, AC to AG
For P.M.C.		Mr. Bindhyachal Singh, Advocate
		Mr. Prasoon Sinha, Advocate
		Mr. Kumar Priyaranjan, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-02-2021

Petitioner has prayed for the following relief(s):

- “i) To make the provisions of the Bihar Apartment Ownership Act, 2006 (Act 28 of 2006 and further amended by Act 1 of 2012) (hereinafter referred to as “the Act, 2006”) workable and Apartment Owners friendly, inculcating and



ensuring healthy and sustainable community living culture;

- ii) To urgently frame fresh Rules in exercise of powers under Section 31 of the Act, 2006 or suitably modify the Bihar Apartment Ownership Rules, 2004 for effectively carrying out the object of the Act, as pointed out in paragraph 21 of this petition;
- iii) To notify a competent Authority exclusively to discharge the quasi-judicial functions under the Act, 2006;
- iv) To facilitate registration of the Apartment Owners Association as a Cooperative Society either by suitably amending the Bihar Cooperative Societies Act, 1935; or issuing necessary instructions and direction for formation and registration of Co-operative Society for the purpose of the provisions contained in Section 16 of the Act, 2006. It would be still better if provisions are made to register the Associations and their bye-laws with the competent Authority under the Act, 2006 so that he would remain in continuous seisin of the matter;
- v) To make effective mechanism for implementation of the direction by the competent Authority so that the provision of the Act may not remain illusory and an eye wash;
- vi) To make provisions for regulating growing practice of using the apartments as PG (Paying Guest) accommodation which has a potential of



security risk to the other owners as also unwarranted treatment at the hands of police in case of some untoward incident.”

The petitioner approached this Court praying for implementation of the provisions of the Bihar Apartment Ownership Act, 2006 (Act 28 of 2006 and further amended by Act 1 of 2012) (hereinafter referred to as “the Act, 2006”). Such a petition being C.W.J.C. No. 4261 of 2007, titled as Dr. J.K. Verma Vs. The State of Bihar & Ors., disposed of vide order dated 04.07.2011. The order is reproduced as under:

“During the course of argument, the learned counsel for the petitioner confined his prayer for a direction to the Government to consider the point raised by the petitioner in this petition and take appropriate decision. The prayer is innocuous and accepted. The petitioner may file a certified copy of this order to the Secretary, Urban Development, who shall, after seeking the advice to Law Department, take appropriate steps to make the provisions of Section 3(x) of the Bihar Apartment Ownership Act, 2006 workable.

This petition is accordingly disposed of.”

It appears that one of the said petitioners did approach the Secretary, Urban Development Department



pointing out certain issues which required attention of the Legislature vide a communication dated 31st January, 2006.

Shri Shambhu Sharan Singh, a practising advocate of this Court, who is the petitioner in the instant petition, states that no action has been taken by the authorities pursuant to the direction issued by this Court or the request made vide communication dated 31st of January, 2006.

Be that as it may, leaving the issue of maintainability of the petition for whether the respondents have committed contempt of Court or not and whether a subsequent petition on the very same issue, as also cause of action, we dispose of the present petition, as prayed for, on the following mutually agreeable terms:

The instant petitioner shall approach the Respondent No. 3, namely The Principle Secretary, Department of Urban Development, Government of Bihar, Patna pointing out the issues highlighted in the instant petition, as also any other issue which may require attention of the appropriate authorities.

Upon receipt thereof, we are hopeful, as is so also assured by the counsel for the State, the matter shall be dealt with, at the appropriate level, within a period of four months.



Any decision taken shall be communicated to the party aggrieved and liberty reserved to the petitioner to take appropriate action in accordance with, if so required and desired.

The issue of maintainability of the petition as also merits are left open.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.02.2021
Transmission Date	

