

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5040 of 2021

Dr. Dev Narayan Bhagat, Male, aged about 75 years, son of late Jamuna Bhagat, Navbharat Hospital, Line Bazar, Purnea

... .. Petitioner

Versus

1. The State of Bihar through the Addl. Chief Secretary, Urban Development Department, Patna
2. Purnea Municipal Corporation, Purnea through its Town Manager.
3. The Town Manager, Purnea Municipal Corporation, Purnea

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Masoom Alam, Adv.
For the Respondents	:	Mr. Rajiv Roy GP-1

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 04-01-2022

This case has been taken up for online hearing through video-conference because of COVID-19 pandemic restrictions.

2. The petitioner, in the present writ application, has put to challenge a communication dated 28.09.2020, issued by the Municipal Commissioner, Purnea Municipal Corporation (for short 'the Corporation'), whereby, acting on a complaint received in respect of illegal construction being made by the petitioner, he has been asked to submit his explanation. In the meanwhile, the petitioner has been restrained from making further construction.



3. Upon perusal of the impugned communication dated 28.09.2020, it is evident that the petitioner was merely asked to explain his position in respect of complaint made regarding illegal construction being made by him, by 05.10.2020.

4. Though, it is stated in the writ petition that the petitioner had immediately filed a representation in response to the said communication dated 28.09.2020, the same has been specifically denied in the counter affidavit filed on behalf of the Corporation. The Corporation has also taken a plea that the petitioner has alternative remedy of approaching the Bihar Building Tribunal.

5. Mr. Suraj Narain Yadav, learned counsel appearing on behalf of the writ petitioner, has submitted that earlier also a show cause notice was issued to the petitioner on 21.04.2016 which was duly responded to. The Corporation, without passing a final order on the petitioner's reply to the show cause, issued another impugned notice dated 28.09.2020. He reiterates that the petitioner had submitted his response to the notice dated 28.09.2020 and 29.09.2020.

6. There being specific denial by the Corporation that the petitioner did not file his explanation before the Municipal Commissioner, pursuant to the communication dated 28.09.2020,



which has remained uncontroverted, we are not inclined to accept the said contention of the petitioner.

7. In our opinion, this writ application filed on 12.02.2021 was premature, since by impugned communication the petitioner was required merely to submit his explanation.

8. This application stands dismissed accordingly.

9. It will, however, be open for the petitioner to take recourse to appropriate remedy either by responding to the said communication dated 28.09.2020 before the Municipal Commissioner or by approaching appropriate authority in accordance with law.

10. The intervention application filed in this case, registered as 01 of 2021, stands disposed of.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.01.2022
Transmission Date	

