

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11115 of 2021

Aim Addcom Private Limited a company incorporated under the Companies Act, having its office at 307, 3rd Floor, B-Block, Chandi Sanyukta Apartment, Kankarbagh, Main Road, Behind Monte Carlo Showroom, P.O. and P.S.- Kankarbagh, District- Patna- 800020 (Bihar), through its Director Mr. Binod Kumar Choudhary, aged about 46 years, (Male), Son of Sri Ramavtar Choudhary, Resident of 303, Gokul Samirti Apartment, Kadamkuan Park Road, P.O. and P.S.- Kadamkuan, District- Patna (Bihar).

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Urban Development, Government of Bihar, Patna, P.O. and P.S.- Patna, District- Patna.
2. Secretary, Urban Development, Government of Bihar, Patna, P.O. and P.S.- Patna, District- Patna.
3. Chhapra Municipal Corporation, Chhapra, P.O. and P.S.- Chhapra, District- Chhapra, Saran, through its Municipal Commissioner-cum-Town Commissioner.
4. Municipal Commissioner-cum-Town Commissioner, Chhapra Municipal Corporation, Chhapra, P.O. and P.S.- Chhapra, District- Chhapra, Saran.
5. District Officer, Chhapra Saran, P.O. and P.S.- Chhapra, District- Chhapra, Saran.
6. Additional Collector, Chhapra, Saran, P.O. and P.S.- Chhapra, District- Chhapra.
7. Superintendent of Police, Chhapra, P.O. and P.S.- Chhapra, District- Chhapra.
8. Yashwant Sinha Son of not known to the petitioner, Resident of Salempur, P.O.- Salempur, P.S.- Chhapra, District- Chhapra, Saran (Bihar).

... .. Respondents

Appearance :

For the Petitioner : Mr. Fakhruddin Ali Ahmad, Advocate
For the Respondents : Mr. Ravish Chandra, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 02-02-2022

At the instance of the Superintendent of Police, Saran
vide letter dated 23.06.2017 (Annexure-1), the petitioner is



said to have installed CCTV cameras at 24 places at Chhapra
with the following conditions:-

- (i) All expenditures pertaining to the installation of CCTV Cameras shall be borne by the petitioner,
- (ii) Electricity bill shall be paid by the petitioner,
- (iii) Essential equipment in the control room shall be arranged by the petitioner,
- (iv) The expenditure incurred on the installation of the CCTV Cameras will be adjusted with the display advertisements on CCTV Unipoles,
- (v) Necessary permission for displaying the advertisements shall be obtained in accordance with law from the concerned Department, namely, Municipal Corporation/R.C.D.; an agreement shall have to be executed conforming to the aforesaid conditions,
- (vi) Technical assistance shall be provided by the petitioner, and training shall be imparted by it to the employees deputed by the office of the Superintendent of Police.

2. The petitioner claims to be a company incorporated under the Companies Act, 1956, engaged in the business of providing CCTV cameras to the local administration for ensuring the maintenance of law and order.

3. It is the petitioner's case that, acting upon the said communication dated 23.06.2017, the petitioner has been



displaying advertisements through the installed CCTV Unipoles since October 2017. The details have been given in the writ petition in relation to the expenditure incurred by it on the installation of CCTV cameras.

4. The petitioner is aggrieved by the decision of the Chhapra Municipal Corporation, whereby private respondent No. 8 has been awarded work of installation of hoarding advertisements at 20 places, including the places where the petitioner is said to have installed CCTVs and put unipole hoardings in terms of the permission granted by the Superintendent of Police, Chhapra. In the said factual background, the petitioner is seeking a direction from this Court to the Municipal Corporation to allow it to continue with the work in terms of the said letter dated 23.06.2017 (Annexure-7) issued under the signature of the Superintendent of Police, Chhapra. It is noteworthy at this juncture that the settlement in favour of respondent No. 8 for the installation of advertisement hoardings has been made on the basis of an open competitive public auction held on 20.06.2020. It is also significant to note that, admittedly, the petitioner had never been granted any permission by the Chhapra Municipal Corporation to install unipole hoardings.



5. The petitioner has asserted in the writ petition that it was not aware as to how much amount it was required to deposit with the Chhapra Municipal Corporation against advertisement tax and despite requests having been made by the petitioner, the Corporation failed to determine the said amount. The petitioner is also relying on subsequent permissions accorded by the Superintendent of Police to install CCTVs at 24 places.

6. By an order dated 06.06.2020 issued to the petitioner under the signature of the Municipal Commissioner of Chhapra Nagar Nigam, the petitioner was asked to produce the documents in relation to the installation of the unipole hoardings. Responding to the said notice, the petitioner is said to have informed the Corporation that there were 24 CCTV cameras working at 17 places and that it had been requesting the Corporation to determine the advertisement tax for payment to the Corporation but for want of response, the same could not be deposited.

7. The fact remains that the Corporation subsequently invited bids for the installation of CCTV cameras with unipole hoardings at such places where the petitioner had installed its CCTV Cameras. The said bidding process was objected to by the petitioner. Finally, the work of displaying advertisements at the



20 places has been allotted to the private respondent No. 8 by an order dated 15.07.2020, on completion of the bidding process.

8. By another letter of the Corporation dated 15.07.2020, the petitioner was asked to deposit the advertisement tax of Rs. 3,81,200/- (Rupees Three Lakh Eighty One Thousand Two Hundred Only) as calculated by the Corporation for the period 01.10.2017 to 30.03.2018, 01.10.2018 to 31.03.2019 and 01.10.2019 to 31.03.2020. The petitioner had paid a sum of Rs. 2,00,000/- (Rupees Two Lakh Only), which was acknowledged by the Corporation and accordingly, the petitioner was directed to deposit the balance amount of Rs. 1,81,200/- (Rupees One Lakh Eighty One Thousand Two Hundred Only). The petitioner asserts that the said amount of Rs. 1,81,200/- (Rupees One Lakh Eighty One Thousand Two Hundred Only) was also deposited, and a request was made to determine the advertisement tax for the subsequent year 2020-21.

9. The petitioner was, however, directed by the Corporation to remove its installations by a letter dated 10.08.2020, consequent upon the award of work in favour of private respondent No. 8. By a letter of the same date, the private respondent No. 8 was directed to commence the work by removing the then-existing installations if the petitioner failed to



remove its installation by 17.08.2020. The petitioner is claimed to have made a written representation to the Corporation on 17.08.2020, asserting that it has been directed to remove installations without any valid reason. There are statements made in the writ petition that an enquiry was got conducted by the Corporation, and a report was submitted by the Additional Collector, Chhapra-cum-District Officer, Saran, Chapra, on 18.08.2020, which was communicated to the State Government of Bihar. In the backdrop of the aforementioned facts, the petitioner is seeking relief, as noted above.

10. It is worthwhile mentioning that after the issuance of the work order in favour of respondent No. 8, an order was issued on 17.08.2020 by the Corporation to the effect that letter dated 10.08.2020 shall remain in abeyance. The said order dated 17.08.2020 was put to challenge before this Court by respondent No. 8 by filing a writ petition giving rise to CWJC No. 7852 of 2020. The said order dated 17.08.2020 came to be set aside by this Court by order dated 22.02.2021 passed in CWJC No. 7852 of 2020. It is the petitioner's case that it was not heard as it was not arrayed as party respondent before this Court in CWJC No. 7852 of 2020 and, therefore, the said order is nullity having been passed behind the petitioner's back. The petitioner has asserted



that in the light of this Court's order dated 22.02.2021, the Corporation directed respondent No. 8 to continue with the work in terms of memo No. 1251 dated 15.07.2020 for the remaining period of 8 months and 15 days.

11. Mr Fakhruddin Ali Ahmad, learned counsel appearing on behalf of the petitioner, has submitted that the action of the Corporation is illegal, arbitrary, and unauthorized in the given facts and circumstances of the case. He has presented that, on the one hand, the Corporation failed to determine the amount of payable tax against the advertisement despite representations having been made by the petitioner for the said purpose; on the other hand, the Corporation started the bidding process and awarded the work to the respondent No. 8. It has been asserted in the writ petition that the petitioner learnt about the issuance of the work order only on 30.03.2021 when its representative had gone to lodge an F.I.R.. Mr Ahmad has argued that to date, the legislature has not come up with any regulation authorizing the Corporation to levy, assess, demand advertisement tax and thus, the levy, demand and collection of tax on advertisement by the Chhapra Municipal Corporation are in teeth of Article 265 of the Constitution of India. He has further submitted that though in the exercise of power under Section 421



of the Bihar Municipal Act, 2007, a regulation titled Patna Outdoor advertisement Regulation, 2019 has been framed but the same has not come into force for want of approval by the State Government and its publication in the Official Gazette. He has submitted that there is a specific provision to the effect that Patna Municipal Corporation (Grant of Permission for Display of advertisements & Similar Devices) Regulations, 2012 shall stand repealed after notification of Patna Outdoor advertisement Regulation, 2019.

12. Mr. Ahmad, learned counsel has submitted that the petitioner was not given any opportunity to represent his case before the issuance of the letter dated 17.03.2021. He has argued that after passing the said order dated 17.03.2021, the installations of the petitioner have been sabotaged. It is evident that the Corporation allowed the petitioner to continue with the advertisement for the period 23.06.2017 until the issuance of the letter dated 10.08.2020, whereby it was put to notice with the allegation that no permission was obtained from the Corporation. He accordingly submits that arbitrary action of the respondent Corporation requires interference by this Court exercising prerogative writ jurisdiction.

13. It can be easily culled out from the facts asserted in



the writ application, which have been briefly noted hereinabove that the petitioner claims to have installed CCTVs and unipoles hoardings for advertisement under certain arrangement with the Superintendent of Police, Chhapra. There was admittedly no permission granted by the Corporation allowing the petitioner to install the hoardings for advertising. Admittedly, the Superintendent of Police appears to have allowed the petitioner to install CCTV cameras and unipole hoardings without giving any opportunity to others to apply and participate in the award of work.

14. We need to notice at this juncture section 145 of the Bihar Municipal Act, which prohibits ('Municipal Act' for short) advertisement without written permission of the Chief Municipal Officer. Section 145 of the Municipal Act reads as under :-

“145. Prohibition of advertisements without written permission of Chief Municipal Officer. – (1) No person shall erect, exhibit, fix or retain upon or over any land, building, wall, hoarding, frame post, kiosk, structure, vehicle, neon-sign or skysign, any advertisement or display and advertisement to public view in any manner whatsoever (including any advertisement exhibited by means of cinematograph), visible from a public street or public place, in any place within the Municipal area without permission, in writing, of the Chief Municipal Officer;
(2) The Chief Municipal Officer shall not grant such permission, if –



(a) a licence for the use of the particular site for the purpose of advertisement has not been taken, or

(b) the advertisement contravenes any provisions of this Act or the Rules or the Regulations made thereunder, or

(c) the tax, if any, due in respect of the advertisement has not been paid.

(3) No person shall broadcast any advertisement, except on radio or television, without the permission, in writing, of the Chief Municipal Officer.”

15. There being clear provision under Section 145 of the Municipal Act that prohibits advertisement without written permission; the petitioner cannot claim any legal right on the basis of so-called permission granted by the Superintendent of Police. Further, it was clearly mentioned in the letter dated 23.06.2017 of the Superintendent of Police that the petitioner would obtain requisite permission from the concerned Department, namely, the Municipal Corporation/Road Construction Department, for advertisement. Admittedly, the petitioner did not obtain any permission at any point in time. Further, the work order which is under challenge has been granted to respondent No. 8 on the basis of public bidding in which the petitioner appears to have not participated.

16. In view of the admitted facts and the reasons noted above, in our opinion, the petitioner's contentions are not at all sustainable. The fact that the petitioner deposited advertisement



tax for a certain period as noted above, does not entitle him to continue with the work of advertisement in the absence of the statutory permission granted in its favour under the provisions of the Act.

17. In our view, the very act of the petitioner of installing CCTV cameras and unipole hoardings for advertisement was in patent breach of Section 145 of the Municipal Act.

18. Situated thus, we do not find any reason to interfere in this matter and entertain the relief that the petitioner is seeking in this writ application.

19. This application is devoid of any merit and is accordingly dismissed.

20. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

K.K.RAO/-

AFR/NAFR	NAFR
CAV DATE	--
Uploading Date	.04.2022
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