

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6327 of 2017

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Santosh Bharti Son of Late Bindhyachal Bharti, resident of Flat No. 204
Nirmala Kunj, Boring Road Near Pani Tanki, P.O.- Shashtri Nagar, P.S.-
Rajeev Nagar, District- Patna- 800024, Bihar.

... .. Petitioner

Versus

1. The State Of Bihar, through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna
2. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Commissioner, Patna.
4. The District Magistrate, Patna.
5. The Superintendent of Police, Patna.
6. The Ministry of Health and Family Welfare, Govt. of Bihar, Patna through its Secretary.
7. The Ministry of Environment and Forest, Govt. of Bihar, Patna through its Secretary.
8. The Ministry of Animal and Fisheries Resources Department, through its Secretary.
9. Station Head Office of Shashtri Nagar Police Station.
10. The Patna Municipal Corporation Patna, through its Municipal Commissioner.
11. Executive Officer, Nutan Anchal Circle, Patna Municipal Corporation Patna.
12. Executive Officer, Patna City Circle, Patna Municipal Corporation, Patna.
13. Executive Officer, Kankarbagh Circle, Patna Municipal Corporation, Patna.
14. Executive Officer, Bankipur Circle, Patna Municipal Corporation, Patna.
15. Bihar State Power Holding Corporation Limited, through its Chairman cum Managing Director.
16. Bihar State Pollution Control Board through its Member Secretary, Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr.Apurva Kumar, Advocate
For the Respondent-State:	:	Mr.Subhash Prasad Singh-GA-3
For the PMC	:	Mr. Prasoon Sinha, Advocate
For the BSPCB	:	Mr. Shivendra Kishore, Sr. Advocate
		Mr. Parijat Saurav, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)
Date : 14-07-2022

In the instant writ petition, the petitioner has prayed for direction to the respondents for implementation of order dated 29.07.2013 issued under the signature of the Municipal Commissioner, Patna Municipal Corporation and further for direction to the respondents to prohibit the exposed sale of any flesh, meat, poultry, fish etc. under open area without any valid licence issued by the corporation.

2. The contention of the petitioner, an advocate by profession, who claims himself to be a social activist, is that in Patna township meat, chick, fish, poultry etc. are being sold without valid licence. There is also rampant road side slaughtering which is hazardous for human consumption.

3. The petitioner has brought on record an order passed in an identical matter by a Division Bench of this Court on 05.01.2015 in CWJC No.9693 of 2013, which was marked as Annexure-2 to the application and reads as under:

“This writ petition has been filed in the nature of a Public Interest Litigation. The concern of the petitioner is the indiscriminate vending of meat and undertaking the activity of



slaughtering of animal in unhygienic condition, affecting the public health. After the matter was placed before the Bench, several respondents have filed their counter affidavits indicating their respective stand. This Court had issued directions at various points of time, taking note of the progress in the matter.

On its part, the Patna Municipal Corporation has framed rules regulating the activity of slaughtering houses of animal and vending of meat. However, implementation of the rules is yet to be undertaken.

Heard Sri S N Pathak, learned counsel for the petitioner, Sri Anjani Kumar, learned AAG 6 for the respondent-State, Sri Shivendra Kishore, learned senior counsel for Pollution Control Board, and Sri Prasoon Sinha, learned counsel for Patna Municipal Corporation.

There is no denial of the fact that sale of meat must be in hygienic condition. Learned counsel for the respondents have prayed for some more period for implementing the regulation immediately since it involves the livelihood of quite a large number of persons. In that view of the matter, we feel that a decent balance needs to be struck between the public health on the one hand, and the livelihood of those depending upon the vending of meat on the other. It hardly needs any mention that public health is primary concern of Municipal



Corporation.

We, therefore, dispose of the writ petition taking on record, the various steps already taken by the Municipal Corporation and directing the Patna Municipal Corporation as well as the State of Bihar

(a) to ensure that activity of the slaughtering of animal and vending of meat are regulated through permit/licence;

(b) the rules which are already in place they shall be implemented, and if the rules touching any other aspects in this regard are to be framed, necessary steps in that direction shall be taken within two months from today; and

(c) at any cost, the activity shall be brought under the new regime within a period of six months.

The writ petition stands disposed of accordingly.

Interlocutory Application, if any, shall also stand disposed of.

There shall be no order as to costs.”

4. It would be evident from the aforesaid order dated 05.01.2015 that the concern of the petitioner in CWJC No. 9693 of 2013 was also that of indiscriminate vending of meat and of undertaking the activity of slaughtering of animal in unhygienic



condition, affecting the public health.

5. After hearing the parties, the Division Bench had already issued necessary directions in that matter as back as on 05.01.2015.

6. A perusal of the order dated 29.07.2013 passed by the Municipal Commissioner, Patna Municipal Corporation would make it clear that by the said order a direction has been issued by the Municipal Commissioner to ensure strict compliance of the provisions of Section 345 of the Bihar Municipal Act.

7. Section 345 of the Bihar Municipal Act reads as under :-

“345. Municipal licence for sale of flesh, fish or poultry.- (1) No person shall, without or otherwise than in conformity with a licence from the Chief Municipal Officer, carry on the trade of a butcher, fish-monger, poulterer or importer of flesh, intended for human food, or use any place for the sale of flesh, fish or poultry, intended for human food:

Provided that no person shall sell, or expose for sale, any flesh obtained from an animal unless the skinned carcass of the animal is stamped in such manner as the Chief Municipal Officer may, by general order made



in this behalf, required in token of the fact that the animal has been slaughtered in a municipal or licensed slaughterhouse:

Provided further that no licence shall be required for any place used for sale, or storage for sale, of preserved flesh or fish contained in air-tight or hermetically sealed receptacles.

(2) The Chief Municipal Officer may, by order, and subject to such conditions as to supervision and inspection as he may think fit to impose, grant a licence or may, by order and for reasons to be recorded in writing, refuse to grant a licence.

(3) The Municipality shall, by regulations, determine the procedure for the issue of a licence and renewal thereof.

(4) If any place is used for the sale of flesh, fish or poultry intended for human food in contravention of the provisions of this Section, the Chief Municipal Officer may stop the use of such place in such manner as he may consider necessary.”

8. The respondent-Municipal Corporation has filed counter affidavit and several supplementary counter affidavits in the present matter. From perusal of those affidavits, it would appear that the stand of the Corporation is that surveillance is being carried out regularly to ensure that unauthorized shops of



animal flesh do not operate within the Municipal area. The steps for construction of slaughter houses have also been taken and some vending zones are under construction whereas there are some hindrances in construction of some other proposed vending zones.

9. Regard being had to the fact that in a similar matter, this Court has already issued necessary directions in CWJC No.9693 of 2013, we do not feel it proper to issue any further direction in the present matter.

10. In case, the directions issued in CWJC No.9693 of 2013 by this Court has not been complied with, the petitioner may have some other remedy but filing of another writ petition on the same facts for the same relief would not be appropriate.

11. Accordingly, the writ petition is disposed of with liberty to the petitioner to seek other remedies available in law.

(Ashwani Kumar Singh, J)

(Dr. Anshuman, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.07.2022
Transmission Date	NA

