

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1199 of 2023

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1. Rakesh Kumar @ Rakesh Kumar Nandan Son of- Brij Nandan Prasad Resident of 201, Dharmshila Nandan Enclave, Arya Samaj Mandir Road, RPS More, Police Station- Rupaspur, District- Patna, at present resident of Ram Thakur Mandir Road, New Milan Pally, Siliguri, Bazar, Police Station Siliguri, District- Darjiling (West Bengal).
 2. Mukesh Kumar @ Mukesh Kumar Nandan Son of- Brij Nandan Prasad Resident of 401, Dharmshila Nandan Enclave, Arya Samaj Mandir Road, RPS More, Police Station- Rupaspur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Directory, Urban Local Bodies, Urban Development and Housing Department, Government of Bihar, Patna.
4. The Executive Officer-cum-Administrator, Nagar Parishad, Danapur Nizamat, Danapur, District- Patna.
5. The Executive Engineer, Nagar Parishad, Danapur Nizamat, Danapur, District- Patna.
6. The Assistant Engineer, In-charge of Development Map/Scheme and Development Section, Nagar Parishad, Danapur Nizamat, Danapur, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rabindra Kumar Priyadarshi, Advocate
For the Respondent/s	:	Mr. Kinkar Kumar (Sc 9), Advocate Mr.Ashutosh Kumar Upadhyaya (Ac to Sc9)

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 16-02-2023 Learned counsel for the petitioners, learned counsel
for the State and learned counsel for Nagar Parisad, Danapur.

The present writ application has been filed seeking
quashing of Letter No. 5745 dated 27.12.2022 issued by the
respondent no.4, whereby the petitioners were issued show



cause asking them to produce the sanction map and the occupancy certificate issued by the Nagar Parisad and to explain under what circumstances the shop and hotel is being run within the premises. It appears that the petitioners after receipt of notice by his letter dated 30.12.2022 had sought 15 days time for filing his reply, but for some reason the reply could not be filed within the time as sought by him.

Since no reply was filed by the petitioner as such the respondent no.4 by his Letter No. 82 dated 09.01.2023 passed an order directing the petitioner to demolish the part of the construction which was not in consonance with the sanction reply within a period of seven days, failing which the same would be demolished by the Nagar Parisad for which the cost shall be realized from the petitioners.

The learned counsel for the petitioners submits that the order was passed behind his back as he was not heard before passing of the order dated 09.01.2023 by the respondent no.4.

The learned counsel appearing for the Nagar Parisad submits that petitioners have remedy of appeal before the Municipal Tribunal and without availing the remedy of statutory appeal the petitioners have approached this Court.

At this Stage the learned counsel for the petitioners



seeks permission to withdraw the writ application with liberty to file an appeal before the appellate authority.

Permission is accorded.

In the event, if the petitioners file an appeal within a period of 30 days from today before the appellate authority, the appellate authority shall condone the limitation, if any, as the petitioners were seeking their remedies before this Court.

The order contained in Letter No. 82 dated 09.01.2023 shall remain stayed till the first date of hearing of the matter by the Appellate Tribunal.

(Satyavrat Verma, J)

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