

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16963 of 2017

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Sitaram Prasad Son of Chhotu Lal, Resident of Mohalla Belbaganj, P.O. Imambari, P.S.- Laheria Sarai, District- Darbhanga.

... .. Petitioner/s

Versus

1. The Darbhanga Municipal Corporation Through The Municipal Commissioner and Ors
2. The Municipal Commissioner, Darbhanga Municipal Corporation, Darbhanga.
3. Rakesh Kumar Ranjan Certified Regd. Architect, Mohalla Hospital Road, Madhubani.
4. Smt. Shiv Kumari, W/o Sri Umashankar Prasad, Mohalla- Belbaganj, P.S.- Laheria Sarai, Dist.- Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Deepak Kumar
For the Respondent/s : Mr. Bindhyachal Rai

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 21-03-2023 Heard learned counsel for the petitioner, Mr. Amrendra Narayan and the learned counsel for the Darbhanga Municipal Corporation, Mr. Vindhyachal Rai assisted by learned advocate, Mr. Shubham.

Learned counsel for the petitioner submits that the present writ application has been filed for a direction upon the respondent No. 2 to dispose of the Vigilance Case No. 1 of 2014-15 expeditiously preferably within a time frame which was initiated in pursuance of the order dated 22.09.2014 in CWJC No. 4323 of 2013.

Learned counsel for the petitioner submits that the



petitioner had, earlier, moved before this Court by filing CWJC No. 8228 of 2013 in which Shiv Kumari, wife of Shri Uma Shankar Prasad resident of Mohalla Belbaganj P.S. Laheria Sarai, District Darbhanga, was impleaded as respondent No. 7. It is next submitted that CWJC No. 8228 of 2013 was filed by the petitioner on the ground that his representation filed before the Darbhanga Municipal Corporation against Smt. Shiv Kumari was not being acted upon.

The CWJC No. 8228 of 2013 was taken up on 30.09.2013 whereby the writ application was disposed of since Darbhanga Municipal Corporation in pursuance of the representation of the petitioner against Shiv Kumari had concluded the proceeding and had directed for demolition of the deviation found in the construction of Shiv Kumari further a penalty of Rs. 50,000/- was also imposed upon her.

Learned counsel for the petitioner next submits that Shiv Devi i.e., respondent No. 7 of CWJC No. 8228 of 2013 filed CWJC No. 25447 of 2013 being aggrieved by order dated 18.09.2013 passed by the Municipal Commissioner, Darbhanga based on the representation of the petitioner.

The said Shiv Kumari challenged the order dated 18.09.2013 passed by the Municipal Commissioner, Darbhanga



on the ground that the same was passed merely based on the representation of the petitioner without instituting a vigilance case which is a necessary requirement under the Bihar Municipal Act, 2007.

This Court, after hearing the parties was pleased to set aside the order dated 18.09.2013 passed by the Municipal Commissioner, Darbhanga Municipal Corporation by order dated 22.09.2002 (Annexure 6) and the matter was remanded back to the Municipal Commissioner to proceed in the matter afresh after formally registering the case under the provisions of Section 323 of the Bihar Municipal Act.

Learned counsel for the petitioner submits that, accordingly, Vigilance Case No. 1/2014-2015 was initiated in pursuance of the order dated 22.09.2014 in CWJC No. 4323 of 2013 but the case, till date, is pending adjudication when, earlier, the Darbhanga Municipal Commissioner, after hearing the parties, had come to a definite conclusion that the deviation in the set back of Shiv Kumari's construction was not in accordance with the provisions of the Bihar Municipal Act and thus Bihar building by laws and even imposed cost of Rs. 50,000/- but the order of the Municipal Commissioner was set aside on a technical ground that the same was passed without



instituting a vigilance case as mandated under the Bihar Municipal Act, 2007.

Learned counsel for the petitioner further submits that since the vigilance case has been instituted as aforesaid, as such, the Municipal Commissioner was required to dispose of the said case expeditiously and preferably within a time frame but the same, till date, has not been done.

Learned counsel appearing for the Darbhanga Municipal Corporation submits that the Vigilance Case No. 1 of 2014-15 shall be disposed of expeditiously.

After hearing the learned counsel for the parties, the Municipal Commissioner, Darbhanga Municipal Corporation is directed to ensure that the vigilance case is disposed of within a period of three months from the date of receipt/production of a copy of this order after giving proper opportunity of hearing to all the stake-holders including Shiv Kumari.

In the event, if for any reason, the Municipal Commissioner is not able to dispose of the case within three months, as directed, he will be at liberty to seek extension but in the event if no extension is filed then the vigilance case has to be concluded within the period aforesaid failing which serious consequences will follow.



**Accordingly, the present writ application stands
disposed of.**

(Satyavrat Verma, J)

HarshPandey/-

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