

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3328 of 2020

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Razi Ahmad Ali Son of Late Mohammad Nazirul Haque Resident of Mohalla-
Ward No. 9, Gang Mahala, Nawadih Road, P.S.- Town, District- Aurangabad
(Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar Through the Secretary, Urban Development Department,
Vikash Bhawan, Bailey Road, Patna.
2. The District Magistrate Aurangabad.
3. The Sub- Divisional Officer-cum- Sub Divisional Public Grievances
Redressal Cell Officer, Aurangabad.
4. The Anchal Adhikari Aurangabad.
5. The Nagar Parishad Aurangabad through it Executive Officer, District-
Aurangabad.
6. The Executive Officer Nagar Parishad, Aurangabad.
7. Tauqirul Haque Son of Late Md. Ramjan Ali Resident of Village- Nawadih,
Ward No. 9, P.S.- Town, District- Aurangabad (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Mrigendra Kumar, Advocate
For the Respondent/s	:	Mr. Shiv Kumar, A.C. to G.A.-3
		Mr. Surendra Prasad Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 01-08-2023 Heard learned counsel for the petitioner, the State as

also learned counsel appearing on behalf of the Nagar Parishad,

Aurangabad.

The present petition has been preferred for the
following relief:

*(i) for issuance of an appropriate writ in quashing
the Notice contained in Memo no.1718/2007 dated 18.10.2019 issued under the signature of*



respondent no.6 whereby the petitioners are directed to deposit Rs.1,00,000/- for violation of Section 313 of the Bihar Municipal Act 2007 (contained in Annexure-2 to the writ application);

(ii) for Issuance of an appropriate writ in quashing the order dated 22.10.2019 passed by the respondent no.3 in Complaint No.534210101111804389, whereby and whereunder the petitioners were directed to deposit fine of Rs.1,00,000/- within 15 days from the receipt of the letter, failing which the same shall be recovered under the Bihar Public Demand Recovery Act (contained in Annexure-3 to the writ application).

(iii) for any other relief/reliefs for which the petitioners are entitled under law as well as on facts.

It is the case of the petitioner that although notices were issued to him, the Executive Officer, Nagar Parishad, Aurangabad (Respondent no.6) failed to record any finding as to what are the deviations made by the petitioner. His contention is that there was no such deviation in the last two years and in a routine manner a fine of Rs. 1,00,000/- was imposed upon him.



So far as grievance against respondent no.3 i.e. the Sub- Divisional Officer-cum- Sub Divisional Public Grievances Redressal Cell Officer, Aurangabad is concerned, his submission is that he also passed order taking cue from the order passed by the Executive Officer, Nagar Parishad, Aurangabad which were ordered in quick successions (Annexures-2 and 3 to the writ petition).

Learned counsel appearing for the Nagar Parishad, Aurangabad on the other hand submits that against the order passed by the authority, he had the remedy of moving before Municipal Building Tribunal, Patna.

So far as the order passed by the respondent no.3 is concerned, again he can move before the First Appellate Authority cum Additional Collector, Aurangabad cum Additional Collector, Aurangabad, He as such submits that the petitioner has jumped the line by directly moving before this writ Court.

In the aforesaid background, learned counsel for the petitioner submits that he will be filing appeal against both the orders but till then he should be given interim protection as from the face of it, it is clear that the Nagar Parishad, Aurangabad has passed the order without any finding recorded in the order.



The writ petition accordingly stands disposed of with liberty to the petitioner to prefer appeal against both the orders within a period of four weeks from today before the appropriate authority, as stated above.

If the said appeal is preferred within the aforesaid period, the Municipal Building Tribunal, Patna as also the First Appellate Authority cum Additional Collector, Aurangabad shall entertain the same taking into account the fact that writ petition filed by him was pending since three years.

Till then the orders in question shall remain in abeyance and will merge with the final orders passed by the Municipal Building Tribunal, Patna and the First Appellate Authority, Aurangabad.

The writ petition stands disposed of with the aforesaid observation.

(Rajiv Roy, J)

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