

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5509 of 2023

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Shyam Mohan Jha Son of Anant Mohan Jha, resident of Village/Mohalla-
Near Lions Club, Hanuman Nagar, P.S. - K. Haat, District - Purnea, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department,
Govt. of Bihar, Patna.
3. The District Magistrate, Purnea.
4. The Municipal Corporation, Purnea through its Municipal Commissioner.
5. The Sub-Divisional Magistrate, Purnea Sadar, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Avinash Kumar Singh, Advocate
For the Respondent/s	:	Mr. Abbas Haider (Sc6)
For the PMC	:	Mr. Krishna Narayan Shahi, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 18-04-2023 Heard learned counsel for the petitioner, learned

counsel for the State along with learned Senior counsel for the

Purnea Municipal Corporation Mr. Pushkar Narayan Shahi

assisted by learned advocate Mr. Bijendra Kumar Singh.

The petitioner is aggrieved by an order dated
20.02.2023 passed by the Municipal Commissioner, Purnea in
Vigilance Case No. 14 of 2022-23 whereby a fine of Rs.
10,00,000/- has been imposed and further constructions of the
building has been stayed and a direction has been issued to seal
the school premises of the petitioner for alleged violation of the
building bye-law on the ground that the petitioner has



constructed the building without getting the building plan sanctioned and by violating the provisions of the Bihar Building Bye-Laws, 2014.

The learned counsel submits that the petitioner has remedy of appeal against the order dated 20.02.2023, passed in Vigilance Case No. 14 of 2022-23 by the Municipal Commissioner, accordingly, the petitioner against the order dated 20.02.2023, filed an appeal before the Municipal Tribunal being Appeal No. 15(N) of 2023.

It is submitted that when the appeal was filed, the Tribunal was not functional, as such, the petitioner had to move before this Court as the school premises was also sealed which led to education of the students taking a back seat. Learned counsel next submits that it is not in dispute that the building was constructed without sanction plan but then the petitioner commenced construction in contemplation that the map which he had submitted would be sanctioned. It is also submitted that there is a provision in the Bihar Municipal Act, 2007 for post facto approval of the map, but the Municipal Commissioner, Purnea was in a hurry. It is next submitted that since petitioner has already availed his remedy of appeal, as such, the premise in question ought not to have been sealed and a cost of Rs.



10,00,000/- which has been imposed is without any basis.

The learned Senior counsel appearing for Purnea Municipal Corporation submits that petitioner has remedy of appeal and he has availed his remedy but then as far as submission relating to sealing of the school in question is concerned, the same is incorrect, as the school has not been sealed and the children are still going to the school for pursuing their studies.

The learned counsel for the petitioner rebuts the submission of the learned Senior counsel for the Corporation and submits that the order impugned is clear that the entire premises stands sealed.

The Court accepts the submission of the learned Senior counsel appearing for Purnea Municipal Corporation that the school in question has not been sealed and the students are still availing their education.

After hearing the learned counsel for the parties, the writ application is disposed of with a direction to the petitioner to raise all the issues raised before this Court in Appeal No. 15(N) of 2023 before the learned Municipal Tribunal for any further relief.

The Court expects that since the Tribunal now has



become functional the appeal would be disposed of expeditiously preferably within a period of six months from the date of receipt production of a copy of this order.

The Court at the cost of repetition reiterates that a specific submission has been made by the learned Senior counsel for the Purnea Municipal Corporation that the school premises has not been sealed and the children are availing their educational facilities.

(Satyavrat Verma, J)

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